



Invitation to Tender (ITT)

July 11th, 2022

Invitation to Tender (ITT) # PRFU-PROJ-015
ITT name: Warehousing and Logistics Services
Submission deadline: July 25th, 2022

Dear Tenderer,

Chemonics UK (Chemonics) invites you to submit a Tender for warehousing and logistics services for the Partnership Fund for a Resilient Ukraine (PFRU).

In addition to this Letter of Invitation, the ITT Pack includes:

- Volume 1 – Key Procurement Information and Definitions
- Volume 2 - Instructions to Tenderers and Evaluation Criteria
- Volume 3 - Terms of Reference (ToR)/Specifications
- Volume 4 – Annexes
 - Annex 1 - Cover Letter (Declarations)
 - Annex 2 - Chemonics Tendering Requirements and Conditions
 - Annex 3 - Chemonics Tender Insurance and Risk Evaluation Form
 - Annex 4 - Terms and Conditions of the Tender
 - Annex 5 - Illustrative list of items that may be warehoused or cross-docked in-transit as applicable for the logistics/delivery order.
 - Annex 6 - Mock Transportation Exercise and Rate Cards

Tenderers are required to read “**Chemonics’ Ethical and Business Conduct requirements**” in Annex 2 and declare they have understood and adhere to these conditions in the Cover Letter provided in Annex 1.

This ITT does not obligate Chemonics to execute a contract, nor does it commit Chemonics to pay any costs incurred in the preparation and submission of the proposals.

All inquiries or requests for clarifications relating to this ITT must be made through the Procurement Point of Contact (POC) listed in the Key Procurement Information in Volume 1. Please contact the POC immediately if any of the ITT documents are missing.

Sincerely,

Matthew Waterfield
PFRU Team Leader

Volume 1. Key Procurement Information

Section 1. Details:

ITT number:	PRFU-PROJ-015
Project Name/No.:	Partnership Fund for a Resilient Ukraine (PFRU) referred to as “Programme”
Authority/Chemonics Client:	Foreign, Commonwealth and Development Office (FCDO)
Implemented by:	Chemonics UK
Description of commodities or services:	Warehousing and Logistics services
Issue date:	July 11th, 2022
ITT clarifications deadline:	July 20th, 2022 by 5:00 pm (UTC+1)
Submission deadline:	July 25th, 2022 by 5:00 pm (UTC+1)
Email for electronic submissions	pfruprocurement@chemonics.com
Contract type/Pricing methodology:	Vendor Framework Agreement / Fixed Unit Rate
Maximum budget for this procurement:	To be determined
Currency of offer	Offers are expected to be expressed in British Pounds
Estimated period of Performance	6 months base period; renewable 6-month option periods
Proposal validity period:	45 days
Anticipated date of award:	1 month after submission deadline
Anticipated date of mobilisation:	August 1, 2022
Country where Commodities /Services will be delivered	Poland and Ukraine referred to as “Country of Performance”; shipment/route origins may include other countries in Africa, Asia, Europe, Middle East, and North America.
Procurement point of contact:	pfruprocurement@chemonics.com
Chemonics contact details for the Tenderer or Tenderer Personnel to notify any potential conflict of interest, safeguarding, anti-bribery and corruption or any other compliance concerns	Chemonics Office of Business Conduct Email: businessconduct@chemonics.com Online: www.chemonics.com/reporting Phone/Skype: 888.955.6881 WhatsApp: (+1) 202.355.8974

By submitting a Tender in response to this ITT, the Tenderer represents that they have read, acknowledge, understood, agree to, and will act in accordance with the terms set forth in this ITT, including the “Terms and Conditions of the Tender”, as may be modified from time to time, which can be found in Annex 4.

Section 2. ITT Definitions:

The following definitions apply to Chemonics invitations to tender as applicable:

- a. "Agreement" refers to a contract that will be executed as a result of this tendering process between Chemonics (Buyer) and the selected Tenderer (Seller).
- b. "Anticipated date of award" is the date that Chemonics expects to sign the Agreement with the Vendor.
- c. "Anticipated date of mobilisation" is the date Chemonics expects the Vendor/Subcontractor to commence work.
- d. "Authority" or "Chemonics Client" means an entity that has contracted Chemonics to implement the Project referenced on the cover page.
- e. "CCTV" means Closed Circuit Television
- f. "Chemonics" acting as the "Buyer" means Chemonics International Inc., Chemonics U.K. or a branch or subsidiary implementing the Project.
- g. "Commodities" means the supplies or items as Chemonics may procure to be stored or transported from time to time by the Vendor.
- h. "Country of Performance" means the country(ies), identified in the Key Procurement Information, where the Services are rendered and/or Commodities will be used.
- i. "Eligible Vendor" means an entity that complies with the ITT eligibility requirements and that has passed Chemonics due diligence process.
- j. "FCDO" means Foreign Commonwealth & Development Office and includes any successor departments of the U.K. Government.
- k. "Vendor Framework Agreement" is a draw-down or umbrella type agreement that establishes the pricing, terms, and conditions for the as-needed purchases. This agreement allows the Project to issue specific purchase orders, on an as-needed basis, for the procurement of Commodities/Services over the Period of Performance. Chemonics is only obligated to pay for Commodities/Services ordered through purchase orders issued under this agreement and delivered by the LSP in accordance with the terms & conditions. All unit prices included in the Tender must remain fixed for the initial Period of Performance of the Framework.
- l. "FUP" means Fixed Unit Price
- m. "GSP" means Good Storage Practices
- n. "GTDP" means Good Trade and Distribution Practices
- o. "ITT Clarifications" is the opportunity Tenderers have to ask questions on the ITT. Questions or clarifications shall only be sent to the Point of Contact and no later than the date and time specified in the Key Procurement Information. To ensure equity, responses will be notified to all Tenderers (where deemed appropriate by Chemonics) without disclosure of the initiator. Only written answers from Chemonics will be considered official and carry weight in the tendering process and subsequent evaluation. Any answers received outside the official channel, whether received verbally or in writing, from employees or representatives of Chemonics or any other party, will not be considered official responses regarding this ITT.
- p. "KPI" means Key Performance Indicator
- q. "LSP" means Logistics Service Provider
- r. "Maximum Budget" is the maximum amount available or authorised for the total procurement. Tenders are expected to be below this amount unless specified in the ITT.
- s. "POD" means Proof of Delivery
- t. "Proposal validity" means a period, expressed in calendar days, in which proposed prices must remain valid after the ITT deadline. If an evaluation process is delayed, Chemonics reserves the right to request extension of the offer validity period.
- u. "Project" is the project that Chemonics is engaged to deliver pursuant to the provisions of the Prime Contract.

- v. "Purchase Order" or "PO" constitutes an order that may be issued under the Vendor Framework Agreement for designated services and which includes a description of the Services and the Schedule of Prices stipulated for the individual order.
- w. "Services" means the services set out in Volume 3 to be delivered by the Vendor/ Subcontractor.
- x. "SOPs" means Standard Operating Procedures
- y. "Tenderer" means the entity submitting a tender or bidding under this ITT.
- z. "U.K." means the United Kingdom including its provinces, states and territories.
- aa. "U.S." or "United States" means the United States of America, including any State(s) of the United States, the District of Columbia, and areas of U.S.-associated sovereignty, including commonwealths, territories and possessions.
- bb. "Value for Money" or "VfM" is defined as the "optimum combination of whole-life cost and quality to meet requirements in a fully transparent manner". The concept of VfM also includes the "4 Es".
 - i. Economy: ensuring how teams will gather up-to-date information on cost drivers to deliver the most economical approach.
 - ii. Efficiency: project learning exercises reflect operational lessons to improve efficiency of the delivery strategy.
 - iii. Effectiveness: present Key Performance Indicators (KPI) and project indicators that show how the project is achieving results.
 - iv. Equity: how the project is addressing gender equality, disability, and leaving no one behind.
- cc. "Vendor" means the entity selected by Chemonics to supply the Services under an Agreement resulting from this ITT.
- dd. "WMS" means Warehousing/Distribution Center Management System

Volume 2: Instructions to Tenderers and Evaluation Criteria

1. Introduction:

The Partnership Fund for a Resilient Ukraine (Programme) is a multi-year, multi-donor funded programme managed by the UK's Foreign, Commonwealth and Development Office (FCDO). The aim of PFRU is to strengthen the resilience of the Ukrainian government, civil society and economy by delivering essential support to government, civil society and the private sector. The goal of this procurement is to secure warehousing and logistics services to meet the needs of the project in providing support to the State Emergency Services of Ukraine and selected local governments. The Programme seeks to engage a logistics service provider capable of providing transportation and warehousing services, including freight forwarding, customs clearance, vehicle delivery, and warehouse storage including inventory tracking, inbound order receipt/storage, and outgoing shipment bundling with the ultimate goal to ensure efficient and timely logistics for commodities bound for humanitarian relief in Ukraine. The Services to be procured under this ITT are required for the Programme's implementation as further explained under Volume 3 -Terms of Reference. The Programme anticipates issuing a performance based, fixed unit rate Vendor Framework Agreement in response to this procurement.

Tenderers are responsible for ensuring that their offers are received by Chemonics in accordance with the instructions, terms, and conditions described in this ITT.

2. Submission Procedure for Tenders:

Tenderers shall submit their tenders electronically by the submission deadline and at the email address in Volume 1- Key Procurement Information. The Technical and the Commercial tender must be submitted separately, and the technical proposal must not have any references to cost information – use the following headers:

Email No. 1: Technical Proposal for Warehousing/Logistics Services

Email No. 2: Commercial Proposal for Warehousing/Logistics Services

Electronic submission of the tender must not exceed 3 attachments (5 MB limit) per email compatible with MX Word, MS Excel, readable format, or Adobe Portable Document (PDF) format in a Microsoft XP environment. Tenderers must not submit zipped files. Those pages requiring original manual signatures should be scanned and sent in PDF format as an email attachment.

The font size chosen for your tenders must not be less than Arial font size 10.

3. Eligibility Requirements

- a. The Tenderer must be an organisation incorporated or legally organised under the laws of its place of business and must have proper licenses or registration to deliver the Services in the Country and Locations of Performance.
- b. No commodities or services shall be eligible for payment if provided by a vendor /LSP included on any list of suspended, debarred, or ineligible bidders used by the United Kingdom, the United States Government or other PFRU financing partners.
- c. Any and all items that are made by Huawei Technology Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikivision Digital Technology Company, Dahua Technology Company will not be accepted. If tenders include items from these entities,

please note that they will be deemed not technically responsive and excluded from competition.

- d. Tenderer must submit the self-declarations and representations included in Annex 1 and shall pass Chemonics due diligence process.

4. Evaluation and Award:

An award will be made to the Tenderer whose proposal is determined to be responsive to this solicitation document and represents value for money to the Project. Best offer proposals are requested. It is anticipated that an award will be made solely based on the original offers received. However, Chemonics reserves the right to conduct discussions, negotiations and/or request clarifications prior to an award. Furthermore, Chemonics reserves the right to conduct a competitive range and to limit the number of tenderers in the competitive range to permit an efficient evaluation environment among the most highly rated proposals. Highest-rated tenderers, as determined by the technical evaluation committee, may be asked to submit their best prices or technical responses during a competitive range. At the sole discretion of Chemonics, tenderers may be requested to conduct oral presentations or provide further information at any stage of the competitive range. If deemed apt, Chemonics reserves the right to make separate awards per component, multiple awards, or to make no award at all.

In evaluating proposals, Chemonics will use the following evaluation criteria and sub-criteria, as further explained in Section 5 and based on the technical requirements of Volume 3:

Technical Specifications – Warehouse		
Facilities and Equipment	Do the proposed site(s), technical approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work (All requisite Infrastructures)? Is the Warehouse bonded?	4 points
Outgoing Shipment Processing and Bundling	Do the proposed site(s), technical approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work?	3 points
Inventory Tracking and Reporting	Do the proposed systems meet all the requirements in the scope of work, including software, hardware, and a cloud-based customer order management portal?	3 points
Security	Do the proposed site(s), technical approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work?	2 points
SOPs	Did the technical approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work?	2 points
Force Majeure and Disaster Recovery Planning	Did the technical approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work?	1 point
Total Points – Technical Specifications - Warehouse		15 points
Approach and Methodology – Warehouse		
<i>Approach and Methodology:</i> Does the proposed approach, service delivery options and timeline fulfil the requirements of executing the Scope of Work effectively and efficiently?		4 points

Mobilisation plan – Is the Tenderer’s proposed mobilization plan consistent with the project requirements, including availability of adequate technology, equipment and infrastructure that are required for rapid order processing?	6 points	
Total Points – Approach/Methodology - Warehouse	10 points	
Technical Specifications – Logistics		
Fleet size, Quality, and Variety:	Total number, variety and adequacy of vehicles in Tenderer’s fleet (with trucks of varying size that meet the specifications included in the ITT). Chemonics will use Tenderer’s title and registration or leasing contract to confirm fleet arrangement.	4 points
Customs Clearance Experience	Does the Tenderer have experience with customs clearance requirements to import commodities/vehicles to Ukraine and Poland? Does the Tenderer have experience with processing special customs request, importing into bond, and for variety of commodities and products similar to the types to be procured by PFRU?	4 points
Transit Tracking	Capability for comprehensive in-transit tracking. Does the Tenderer have the capacity to track its vehicles on any given route, and provide accurate and genuine route-verification data and reports to Chemonics upon request or as required in the SOW? If Tenderer has not adopted GPS capabilities, has the Tenderer sufficiently described its processes and ability to track vehicles in a similar efficient manner?	4 points
Delivery Records	Capability to provide written proof of delivery (POD) with real-time/daily updates. Preference will be given to Tenderers who can provide electronic POD. If Tenderer has not implemented electronic PODs, does the Tenderer sufficiently describe their system or methodology to submit hard copy PODs on-time?	3 points
Security	Does the proposed approach, methodology, and relevant SOP(s) meet the required criteria as outlined in the scope of work and cover the full range of security issues related to the distribution of products, lives, and property? Is the Tenderer capable of adjusting security provision depending on security status of destination, including additional security measures as necessary and/or required?	3 points
SOPs	Standard Operating Procedures: Does the Tenderer’s standard operating practices comply with best standard practices for:	2 points

	<ul style="list-style-type: none"> • Vehicle and equipment maintenance • In-transit operating procedures; • Routing and re-rerouting procedures; • Incident management and reporting 	
Total Points – Technical Specifications - Logistics		20 points
Approach and Methodology – Logistics		
<i>Approach and Methodology:</i> Does the proposed approach, service delivery options and timeline fulfil the requirements of executing the Scope of Work effectively and efficiently, including timeliness of fulfilling deliveries?		5 points
Total Points – Approach/Methodology - Logistics		5 points
Corporate Capabilities, Experience, and Past Performance		
Corporate Capabilities and Experience	Company Background and Experience – Chemonics will evaluate whether the company experience is relevant to the Scope of Work.	12 points
Past Performance	Chemonics will assess the past performance of the Tenderers by contacting three references who may indicate the Tenderer's past performance for projects of similar size and scope	8 points
Key Performance Record	<ul style="list-style-type: none"> • Percentage of on-time delivery • Number of deliveries per year to Ukraine both pre- and post-conflict • Track record of dispatching vehicles quickly 	5 points
Total Points – Corporate Capabilities		25 points
Total Technical Score		75 points
Commercial Criteria		
<p>The commercial proposal (Price) will be scored. Chemonics will use the Annex 6 submitted by each tenderer to compare the commercial proposal between bidders. See Annex 6 for the warehousing and transportation mock exercise and base rate card requirement. Offerors may expand or adjust rate cards to reflect best approach to meet requirements. Chemonics will award a contract to the Tenderer whose proposal represents value for money to Chemonics.</p> <p>Review will include, but is not limited to, evaluation of:</p> <ul style="list-style-type: none"> • Rate card for inbound and outbound shipment • Rate for inventory management and warehousing services for warehousing 100 pallets per month (on average) for a period of 6 months • Cost of the warehousing services into a Bonded Warehouse • Cost for the importation paperwork from origin country to the warehouse in Poland + Cost of the export transaction to Ukraine 		25 points

5. Tender details

The following is the information required to be considered a responsive tender:

5.1 Cover letter: All tenders without exception must include a cover letter using Annex 1 as a basis. The cover letter includes the Vendor's declaration and must include all documentation necessary for Chemonics to do its due diligence process. The declaration must be signed by an authorised representative of the company. Chemonics reserves the right to request additional documentation as part of its due diligence.

5.2 Technical Proposal

The technical proposal shall comprise the following parts, and parts (a) and (b) shall be between 5 and 15 pages long but may not exceed 15 pages, not including full page graphics/charts:

a. Specifications: Volume 3 contains the technical specifications and requirements for this ITT and the basis of the scope of work for an award. Tenderers shall ensure that technical descriptions of services align with activity-based cost (ABC) per-unit quotations for warehouse and logistics services submitted in the commercial response. Tenderer shall provide the details regarding their technical approach and operations to fulfil the scope requirements, with the main general requirements summarized below:

1. Proposed Warehouse location(s), dimensions, existing or planned physical facilities (access, site drainage, utilities, proximity, communications, capacity, temperature control systems, etc.) and presence and specifications of racks, material handling equipment, and security systems including closed circuit television (CCTV), fencing, visitor control, etc. If Tenderer is proposing a facility that is to be leased/ renovated, evidence that a suitable facility meeting stipulated requirements shall be provided by the time stipulated by Chemonics UK. Detailed schedule of works providing timeframe for when required activities would be completed. Storage location for short-term vehicle/heavy equipment, if necessary, when consolidation or in-transit storage is necessary for ongoing freight forwarding of vehicles/heavy equipment. See Annex 5 for the range of illustrative items that may be warehoused or cross-docked in-transit as applicable for the logistics/delivery order.
2. Warehouse services including bundling of commodities according to Delivery Orders. Delivery Orders will generally be issued with list of commodities to segregate in designated outbound shipments to up to four Oblasts (regions) in Ukraine as determined in coordination with PFRU.
3. Warehousing Management System (WMS) description and functionalities. Preference for a WMS able to send, receive, and process excel and csv files (inventory reports, orders, shipments, pallet utilization, etc.).
4. Logistics Capabilities shall include ability to provide transportation for a variety of commodities including the range of illustrative items included in Annex 5. Tenderer should consider the following in its freight forwarding approach:
 - Commodities will be procured by Chemonics on EXW/FCA basis. Awardee will be responsible for timely freight forwarding from suppliers to the designated bonded warehouse based on logistics orders, including customs clearance and any other applicable declarations.
 - Delivery Orders coordination with warehouse. Awardee will be responsible for freight forwarding from the warehouse to designated locations within Ukraine as listed in Volume 3.

- Transit tracking capabilities for in-bound and out-bound shipments.
 - Delivery receipt and documentation tracking and transmission.
 - Appropriate security and/or security considerations to ensure safe transit and delivery.
 - The Tenderer should provide a summary of their fleet size and capacity.
5. Capability for In-Transit Tracking: The Tenderer must describe the capability for real-time in-transit tracking. Chemonics' preference is that tenderers should use Global Positioning (GPS) tracking devices for in-transit tracking, and the capacity to provide route-tracking documentation to verify and validate the specific route taken by any given vehicle that is tasked with delivering commodities. Tenderers are requested to provide a solution that addresses potential security concerns to track vehicles while at the same time protecting data. If GPS tracking data is not available, Tenderer shall provide an adequate solution for vehicle tracking, for example detailed vehicle and phone/SMS/GPS location logs using smart phone maps, which shall be provided upon request. The Tenderer should include the number of vehicles in its possession or that shall be used in this scope of work which carry GPS tracking equipment. Tenderer shall provide time-stamped route-tracking and route-validation documentation, upon request. Chemonics may confirm the Tenderer's proposal with a request for fleet-evaluation.
6. Driver Services for transport of road-worthy vehicle procurements when vehicle freight services are not appropriate for the number or size of vehicles. Safety verified drivers and use of transit tracking are requested.
7. Provide Standard Operating Procedures (SOPs). The Tenderer shall provide standard operating procedures (SOP) that address the full range of security issues related to warehousing, distribution and the operating environment to assure the quality, security and integrity of the commodities being transported. Such issues include, but are not limited to, appropriate vehicle and equipment selection and maintenance (e.g. locks, security seals, alarm systems), preventing unauthorized access to and theft or misappropriation of commodities, operating procedures while commodities are in-transit, selecting delivery routes and re-routing as conditions change or concerns arise, and incident management and reporting. The SOPs for logistics and freight forwarding should comply with World Health Organization (WHO) Good Distribution Practices, provided under Annexes 8 through 11 and found on the WHO website [qas19_793_good_storage_and_distribution_practices_may_2019.pdf](https://www.who.int/qas/19_793_good_storage_and_distribution_practices_may_2019.pdf) (who.int).

SOPs shall include but not be limited to the following:

- Freight forwarding document processing, including any customs clearance and disclosures
- Freight Forwarding
 - Visual inspection of shipment/processing of receipts and PODs;
 - Vehicle and equipment maintenance;
 - In-transit operating procedures;
 - Routing and re-rerouting procedures;
 - Incident management and reporting
- Inbound warehouse processes:
 - Warehouse Receiving, (ensuring the accuracy of the goods (visual inspection and quantity) received against the copy of the purchase order)
 - Warehouse Put Away
- Storage:
 - Maintenance of good storage practice
 - Product recall

- Outbound warehouse processes
 - Selection picking
 - Auditing / Quality control
 - Documentation
- Dispatch and transportation.
- Daily operations reporting
- Disaster recovery plan

8. Force Majeure and Disaster Recovery Planning

Tenderers shall provide a Force Majeure and Disaster Recovery plan to demonstrate its capabilities to maintain key business activities on-going after an adverse event, with the human and material resources of the project. The plan should provide detailed information on how the tender will respond to emergencies or disasters to continue the critical functions of warehousing and logistics services provided to the project.

b. Technical Approach and Methodology: The Tenderer shall describe the company's approach to performing the services as described in the Scope of Work in Volume 3. Technical proposals should highlight components of the approach including details of the tenderer's response to the specific warehousing and transportation services responsibilities under the scope of work and the resources, technical expertise and equipment which will be utilized to meet the required transportation deliverables detailed under the scope of work of this ITT solicitation during implementation of the proposed contract.

Tenderer shall provide a mobilization plan detailing the timeframe for when required organizational and technical infrastructures will be put in place should they not already be in place, including but not limited to the following:

- Hired qualified staff, who are assigned and trained in each requisite area for proposed facility(ies), and present which staff will be responsible and focal points for each task and interaction with Chemonics;
- Fully functional physical assets, including but not limited to IT, security and safety measures, material handling equipment, furniture and all equipment provided for operations;
- Required liability, local, and commodity insurance coverages are put in place;
- Implemented security plans for each site and facility; and
- Provide a description of WMS and inventory tracking capabilities.

Tenderers shall demonstrate through detailed narrative explanation, with any supporting documentation, the requisite and adequate technology, equipment and infrastructure that are required for the rapid order processing, with minimal requirement to hold inventory in storage.

c. Corporate Capabilities and Past Performance. This part shall be between 3 and 10 pages long but may not exceed 10 pages. This section must include a description of the company and organization, with appropriate reference to any parent company and subsidiaries. Tenderers must include details demonstrating their experience and technical ability in implementing the proposed technical approach/methodology and the detailed mobilisation plan. Tenderer shall elaborate on their experience in similar commodities as described in the Annex 5.

Tenderers must include at least 3 past performance references of similar work (under contracts, subcontracts or grants) previously implemented as well as contact information for the companies/donors for which such work was completed. Contact information must include at a minimum: name of point of contact who can speak to the Tenderer's performance, name and address of the company/donor for which the work was performed, and email and phone number of the point of contact.

Tenderers must also include key performance records of their previous experience within Ukraine. The record should contain the number of deliveries (pre- and post-conflict) to Ukraine, the percentage of on-time delivery as well as other performance indicators which could demonstrate its capabilities to deliver commodities to Ukraine.

Chemonics reserves the right to check additional references not provided by a Tenderer.

5.3 Commercial Proposal

The commercial proposal is used to determine which proposals represent value for money and serves as a basis of negotiation before award of an agreement.

The Agreement to be awarded will be based on fixed unit rates with a total ceiling price. No profit, taxes, or additional costs can be added after award therefore these costs must be included in the proposed prices.

The Tenderers' cost proposal shall consist of the following three parts: Part 1 – Price of Services; Part 2 – Cost Notes; Part 3 – Scenario Budget/Route Planning Exercise

Tenderers are requested to provide activity-based cost (ABC) per-unit quotations at minimum for warehouse and logistics services in accordance with the specifications in Volume 3.

a. Part 1: Price of Services

For the commercial proposal, Tenderers shall provide the applicable rate cards for both warehousing and all logistics services, including all applicable ABC unit rates and other fees. Tenderer must disclose any services that may result in additional fees such as extended hours or operation during any holidays, fuel, road conditions, maintenance, expedited services and hours of travel.

All cost information must be expressed in the currency in the Key Procurement Information in Volume 1. Under no circumstances may cost information be included in the technical proposal.

1. Freight Forwarding

Tenderers must prepare and present to Chemonics table(s), in MS Excel, showing their best proposed rate cards for the lanes and services as requested in the bid sheet included with the ITT and compliant with service requirements included herein. Pricing should be valid for the six month base period with rates for main connections. Detailed rates for connections between high traffic lanes to Poland and between Poland and named Ukraine oblasts and rayons will be given highest preference. Offerors are encouraged to propose pricing parameters for renewal periods on a 3 or 6 month basis.

Service rates and fees shall be listed, including vehicle driver services, customs clearance and declarations for shipping into bond, and all types of shipment modes.

Tenderer shall include the applicable rate cards for lanes and fees in its commercial response in the format in Annex 6. The Tenderer may adjust the format to accommodate the number and structure

of rates; however, in the case of any adjustments, the Tenderer shall note changes in the accompanying Cost and Price Notes. Tenderer shall propose rates for the anticipated six-month period of performance, with an option for a six-month extension period. Chemonics will consider a price adjustment after three months based on documented escalation factors only.

2. Warehouse Prices

Tenderers must prepare and present to Chemonics pricing table(s), in MS Excel, showing their best proposed prices per proposed warehouse location for evaluation, using a format similar to the below, expanded as necessary to cover associated activities for each warehouse location offered. Prices shall be based on a customs bonded and/or duty free zone warehouse location meeting the technical specifications and project scope requirements.

Location	Activity	Unit	Ambient Rate (Currency)	Vehicle or Large Equipment Storage (Currency)
	Inbound Pallet Processing	Pallet*		
	Outbound Order Processing	Order		
	Warehouse Storage Per Pallet (monthly closing pallets)	Pallet		
	Warehouse Storage for Unpalletized Items	0.040 m3		
	Pick, Bundling, Loading, Dispatch	Case/Pallet		
	Pick, Bundling, Loading, Dispatch Partial	Carton/Case/Pallet		
	Vehicle/Equipment cross-docking	meter		
	Vehicle/Equipment Secure Lot Temporary In-Transit Storage	meter		
	Vehicle/Equipment Loading/ Dispatch	meter		

Fixed unit prices shall be inclusive of all operating costs and associated costs, including but not limited to: taxes, fees, including salaries, maintenance on machinery and infrastructure, including generators, pallet lifts, plumbing, IT, CCTV, security systems with full access controls, applicable insurance, and warehouse management information system reporting/tracking. Tenderer must provide a breakdown of what is included in the cost, including types of generators, # of pallet lifts,

types of racks, explanation of security for warehouse and/or lots for Chemonics to determine reasonableness, realism and completeness.

Volume discounts and/or incentive pricing. The Tenderer shall include any proposal for discounts based on volumes achieved over time or other performance incentive structure that encourages performance exceeding key performance requirements included in Volume 3.

Additional instructions are as follows:

Storage:

Monthly billing for storage should be based on the closing balance of the number of pallets in storage at the end of the month and total meters of unpalletized storage space utilized.

Outbounds:

Dispatch should be billed based on the fraction of a products dispatch per time which is summed up at the end of the month. Dispatch is calculated as follows:

- Number of packs dispatched/Total number of packs expected (sitting) on pallet.

Inbounds:

Inbounds are charged as the aggregate of actual pallets received. Inbound is calculated as follows:

- Total number of pallets received * inbound rate.

Pallet sizes should be based on the standard European pallet as specified by the European Pallet Association: 1,200 by 800 by 144 mm.

Inbound rates should be proposed for unpalletized items based on ability to rack or requiring large equipment floor space.

- A. The fixed unit price for processing inbound items to the warehouse includes but is not limited to the following activities:
 - a. Unloading inbound vehicle
 - b. Palletizing/sorting or locating secure unpalletized storage for inbound commodities
 - c. Placing goods in storage
 - d. Handling inbound carrier damage
- B. The fixed unit price for processing outbound product shall include but not limited to the following activities:
 - a. Filling delivery orders including bundling commodities, equipment, utilizing pallets, containers, or securing large equipment for transport as free-load
 - b. Staging outbound goods
 - c. Checking outbound good
 - d. Loading outbound goods
 - e. Quality assurance checking
 - f. Equipment pre-operational checking, if applicable and requested
- C. Handheld terminals with barcode scanning or other inventory management capability should be included in the fixed unit rates if available
- D. Preference for web-based status/ordering capabilities for clients to view warehouse and shipment status and view electronic reports.

b. Part 2: Cost notes

Tenderers must prepare and submit cost notes that explain the basis for all proposed prices. Where pricing differs by commodity transportation type or seasonality, tenderer should provide specific explanations in the cost notes, as well as note any discounts or sliding scale for large

volumes of distribution or storage. If Chemonics at any time requests additional information from offerors to understand the offerors' proposed prices, the offerors must submit the additional information requested. The offeror's cost notes must provide sufficient detail to allow Chemonics to clearly see and understand the type of costs included in the offeror's proposed tier prices.

c. *Part 3 – Scenario Budget/Route Planning Exercise*

An illustrative scenario is presented in the Excel attachment labeled Annex 6: Mock Transportation Exercise for PFRU ITT # PRFU-PROJ-015. Tenderer is requested to complete the scenario so that Chemonics may understand the Tenderer's capability to meet the scenario requirements and as comparative method for determining reasonableness of prices.

Volume 3. Specifications and Technical Requirements

The Logistics Service Provider (LSP) will act as logistics service provider being responsible for the transportation, storage, customs clearance of Chemonics goods. Technical requirements shall consider the details requested in Volume 2 as well as the specifications and assumptions detailed below in Section 1. Logistics Services and Section 2. Warehousing.

1. Logistics Services

Freight forwarding services in support of PFRU activities shall comprehensive logistics to meet the PFRU objective to delivery immediate and urgent early recovery support to selected municipalities (hromadas) in northern Ukraine. The LSP shall be required to coordinate with Chemonics on all inbound logistics orders including necessary advance notices for arrangements with suppliers. The LSP shall coordinate internally with the warehouse, and copy Chemonics representatives, with an advanced shipment notification for inbound shipments at least 48 hours prior to arrival at the warehouse facility. This notification should include relevant shipping documents and the following data: Date and mode of shipment, stock code(s) and description(s) of products, Number of pallets/packages.

Activities include but are not limited to, the following areas:

1. Arrange Ocean transportation from origin port to destination port (Full Container Load (FCL), including both dry and temperature controlled ocean services – temperature controlled or monitored ocean shipping requirements are anticipated to be infrequent and will be quoted ad-hoc during operations if required
2. Arrange Inland transportation (road and/or rail) as required (origin and/or destination) including door pickup or delivery as per booking inbound to the warehouse and to designated consignees.
 - a) PFRU anticipates shipments will be most frequent to the warehouse for temporary storage and then bundling and onward shipment to, but not limited to, four regions (oblasts), (Kyiv, Chernighiv, Sumy, Kharkiv) and de-occupied hromadas in corresponding districts (rayons) within those oblasts (Buchanskij, Vyshgorodsky, Brovarskij, Chernigiv, Novgofor-Siversky, Konotopsky, Ohtirka, Romny, Gluhov, and Sumy)
 - b) Outbound shipments will be planned based on inbound volume and transport availability. For the purposes of the proposal, Tenderer should estimate two shipments per month starting the second month of operations to each of the oblasts listed above and illustrative rayons.
3. Report Verified Gross Mass (VGM) to carrier (ocean)
4. Arrange Air-freight services inclusive of pre-carriage and on-carriage as required
5. Arrange pickup or delivery “in bond” as required
6. Expedite shipments when needed
7. Transport and handle Time and Temperature Sensitive Cargo (as defined by the International Air Transport Association (“IATA”)), if required
8. Prepare shipment and customs clearance related documents (excluding non-commercial invoice, packing list, HTS classification, license determinations)
9. Clear customs (export and/or import as contracted), including support/communication on required exemption processes, new regulations, document validation and classifications
10. Submit freight invoice and other required documents prior to payment and track shipment by Order number
11. Provide signed **Forwarder's Cargo Receipt (FCR)** within 24 hours of pickup from the

- designated PFRU Supplier
12. Provide email pre-alert to PFRU and other stakeholders as designated by PFRU with all shipment documents,
 - a) Air shipment - at least one business day prior to air shipment departure,
 - b) Sea shipment - A House Bill of Lading should be provided at least 72 hours prior to sea shipment departure; pre-alert after 5 or less business days of departure and should include the Master Bill of Lading
 13. Provide signed Proof of Delivery (POD) for all shipments on delivery of shipment to consignee.
 14. Provide accurate and complete documentation for tracking and compliance purposes
 15. Provide value adding services such as warehousing, data loggers, security escorts as requested
 16. Arrange and provide drivers services for road-worthy vehicles if requested by PFRU
 17. Ensure accurate and timely messaging/data tracking for shipments with records of the following:
 - a) Receive booking request
 - b) Send booking confirmation
 - c) Send "Shipped" confirmation
 - d) Track data for regular reporting including but may not be limited to:
 - i. Picked up date (if pick up is in scope)
 - ii. Estimated/Actual Departure origin port/airport
 - iii. Waiver start and finish dates, if applicable
 - iv. Trans-shipment status'
 - v. Estimated/Actual Arrived destination port/airport
 - vi. Last Free Day
 - vii. Customs start and cleared dates
 - viii. Estimated/Actual Delivered to door (if door delivery in scope)

2. Warehouse

LSP(s) shall be responsible for warehousing services at a customs bonded warehouse and storage facility in Rzeszow; Chemonics may also consider a warehouse and storage facility in a duty-free zone. The facility shall be capable of receipt of inbound shipments in a duty-free status pending export to Ukraine from, but not limited to, the European Union, European Economic Area, United Kingdom, and the United States.

The facility shall be capable of storage for medical and technical equipment that require clean, secure, ambient indoor storage as well as construction materials, heavy construction equipment and vehicles, and standard vehicles. LSP(s) shall be capable of providing adequate equipment and infrastructure suitable for rapid staging and pick, bundle and dispatch services for medical, technical and construction commodities without necessarily long-term storage. In the warehouse, commodities shall be stored at relatively lesser period of time or may not be stored at all but are rapidly cross docked upon receipt to designated delivery destinations, which will include bundling for shipment to designated consignees in Oblasts in Ukraine. PFRU anticipates shipments will be most frequent to the warehouse for temporary storage and then bundling and onward shipment to, but not limited to, four oblasts (Kyiv, Chernighiv, Sumy, Kharkiv) and de-occupied hromadas in corresponding rayons in those oblasts (Buchanskij, Vyshgorodsky, Brovarskij, Chernigiv, Novgofor-Siverskyy, Konotopsky, Ohtirka, Romny, Gluhov, and Sumy). LSP(s) shall have all the requisite and adequate technology, equipment and infrastructure that are required for the rapid order processing, with minimal requirement to hold inventory in storage.

LSP shall be responsible for the safety and security of its personnel and property, third parties affected by the LSP's activities under any resulting Agreement, and of the commodities and property in the LSP's custody at the facilities, with warehouse security meeting the minimum specifications herein. The commodities and property shall be stored as requested by PFRU (or its designee) until released to the distribution agent, consignee, or another party so designated by the project office.

The LSP will maintain at all times adequate documentation including written instructions, Standard Operating Procedures (SOPs) for all operations and particularly for:

- a. Personnel: qualifications in line with national regulations;
- b. Premises and facilities;
- c. Maintenance of good storage practice;
- d. Routing and processing of all Products from receiving to dispatch and the reverse logistics cycle;
- e. Control of obsolete and outdated Products;
- f. Returned goods, handling and re-evaluation process; and
- g. Dispatch.

The LSP must ensure that there are no discrepancies between physical inventory and inventory reports. The LSP shall be required to report on performance as required in reports and deliverables and for the key performance indicators. The LSP shall take all direction and instructions as pertains to Chemonics commodities from the designated representatives and in accordance with the following technical requirements. The LSP shall act as a service provider and does not acquire ownership in respect of the goods stored in the warehouses.

The LSP shall provide the staffing and coordination services related to all requirements and requests under this agreement.

I. Facilities and Equipment

LSP(s) shall operate and maintain facility(ies) in compliance with the following requirements:

- a. No unauthorized personnel shall be permitted access to facilities. Chemonics (or its designee) staff shall be granted access to any facility during business hours, unless otherwise agreed, for the inspection of the goods and facility(ies).
- b. Stock shall be under continuous supervision, with adequate security, which shall be provided on a rotating schedule 24 hours a day, seven days a week.
- c. Facility(ies) shall be fully enclosed with a security parameter fence to prevent intrusion or vandalism.
- d. The following equipment shall be maintained and fully functional at all times:
 - i. all safety and security equipment including, but not limited to intrusion detection systems, CCTV system, access control systems, interior and exterior lighting, perimeter security systems, smoke detectors, fire suppression systems, serviced fire extinguishers, and related equipment;
 - ii. material handling equipment, hand trolley, fork lifts, reach trucks and all other Warehousing equipment;
 - iii. back-up generators, to ensure operations seven days per week, 24 hours per day.
- e. CCTV footage must be stored on site and off site for a minimum of 90 days after recording.
- f. Storage facilities shall be clean and free of vermin. A written sanitation and pest control procedure shall be maintained, together with logs recording the use of all pest control agents, including the amount used, method of application and date and times.
- g. Environmental, health and safety requirements are to be adhered to, including adequate fire detection suppression.

- h. Facilities shall come with the provision of water and electricity. Facility must be equipped with necessary backup generators with appropriate capacity to support normal operations of the warehouse.
- i. Storage areas shall provide adequate lighting to enable all operations to be carried out accurately and safely.
There shall be sufficient drainage systems to prevent flooding or water damage;
- j. Communications technology and equipment shall be maintained for the use of telephones, fax, and email.
- k. Ceilings shall have a height of at least 5.5 meters.

LSP shall operate and maintain **ambient** warehousing in compliance with the following requirements:

- a. Facility(ies) must be of concrete or a similar permanent material (e.g. metal reinforced concrete), with smooth concrete flooring.
- b. There must be sufficient pallets available so that technical, medical and non-pharmaceutical health commodities are stored off the floor and suitably spaced to permit cleaning and inspection, and stacked no more than 3 meters high. Construction materials should be palletized when possible. Non-palletized storage should be tracked in secure areas and organized to permit bundling for outgoing shipments or cross-dock shipments efficiently and safely as possible.
- c. Each facility shall be accessible by truck for adequate receipt and dispatch of cargo from vehicles, with two points of entry with minimum measurements of four meters by four meters.
- d. There shall be sufficient protections against climatic and environmental effects such as temperature and humidity.

II. Product Control

LSP shall implement a written process management procedure that ensures the control of goods:

- a. Rejected materials shall be identified and stored in a manner that prevents their use and/or distribution until a final decision is taken on the process to be followed regarding destruction or removal from the Warehousing/Distribution Center.
- b. Damaged/broken stock or suspected to be damaged shall be withdrawn from usable stock and quarantined, and Chemonics shall be properly notified within twenty four (24) hours of discovery.
- c. No pallets of shipments of commodities shall sit in the aisles when there are no warehouse floor operations going on – inbound and outbound operations, physical stock count, or cycle count by the end of the day.

III. Inventory Tracking

LSP shall manage **ambient** technical, medical and construction materials and non-pharmaceutical health commodities in compliance with the following requirements:

- a. LSP shall maintain an inventory control system that accurately tracks all items in the warehouse and that provides accurate reporting on status.
- a. LSP shall process orders duly authorised by Chemonics (or its designee), and shall pick, bundle, dispatch products for such orders, according to the regular delivery schedule and/or special delivery orders provided by Chemonics, ensuring that dispatches correspond with order and proofs of delivery (PODs) (or electronic proofs of delivery (ePODs)).
- b. Packaging, packing and transportation methods shall be appropriate for distribution in the particular climates and transport and storage conditions encountered in country. Any required additional packaging costs that may be incurred by LSP(s) shall be invoiced to Chemonics in the monthly statement of costs, provided these were previously approved by Chemonics. Orders will be received at least 2 days prior to required dispatch. It is recognized

by LSP(s) that flexibility at times will be required and thus orders might be received with less than the 2 days' notice prior to required dispatch and the LSP has to deploy all necessary resources in order to meet the required deadlines for delivery to the recipients including working, if needed in emergency situations (with justification provided by Chemonics) on a rotating schedule 24 hours a day, seven days a week including holidays Subcontractor shall consider using compensation time schedule for work performed during these unusual emergency situations.

- c. Products shall be stacked in accordance with manufacturers' instructions, with packaging labels free from obstruction, clearly displaying contents, weight, quantity, manufacturer, and any special instructions for handling stacking shipping storage and/or transportation of the contents.
- d. Goods for dispatch must be labeled accordingly.
- e. All goods are required to be stored off the floor on pallets or pick flow racks at all times.
- f. Products are to be covered and not left open.
- g. Mixing of products in unprinted boxes during picking and packing in the warehouse is permitted but shall be well labeled (product description, batches and expiry date, quantity, temperature requirement).
- h. All pallets used shall be firm and unbroken, clean, free of dirt and insects, and stored or cross docked in a dry area.
- i. There shall be adequate resources to ensure that the loading and offloading of commodities in and out bound vehicles to the facility(ies) is conducted in a timely fashion to ensure there are no unnecessary delays in commodities receipt and dispatch. The maximum number of hours spent loading or off loading a vehicle: off loading a 30ton/40ft. container 1.5-2hrs; loading 2-3 hrs max; off loading a 20 ton/20ft container or less 1-1.5hrs, loading 1.5-2hrs max.

IV. Security

- a. LSP shall (i) maintain a complete security plan which will include adequate precautions to ensure that no unauthorized personnel have access to the facilities, taking into account the security situation in the part of the country where the services are being provided; (ii) assume all risks and liabilities related to LSP(s) security and full implementation of the security plan. Chemonics reserves the right to verify whether such a plan is adequate and in place and suggest modifications to the plan when necessary; and (iii) ensure that necessary security regulations are included in the plan and adhered to by all staff. Failure to maintain and implement as appropriate security plan as required may be deemed a breach of contract.
- b. LSP shall manage the security services and direction. LSP shall perform any other related security services as may be required with regard to the project such as:
 - i. Investigation of incidents;
 - ii. Country/route risk evaluation;
 - iii. Casual (unplanned) guarding (such as required to guard a shipment at an airport/port/other location);
 - iv. Security Equipment; and
 - v. Personnel protection services and escorting.
- c. LSP shall report to Chemonics any security incident that may lead or could have lead to the loss or damage to commodities or to the facilities or equipment or to injury to personnel; or any event that can affect the integrity of the commodities including but not limited to: fire, dampening/wetting of commodities in stock due to leaking roof or flooding, etc. within 24 hours of discovery.

V. Force Majeure and Disaster Recovery Planning

LSP shall maintain appropriate disaster recovery and security systems to provide continuity of services in case of causes established to be beyond the control and without the fault or negligence of Subcontractor(s) such as (1) acts of God or of the public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) pandemics and/or epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather, or (10) security breach (each a “**Force Majeure Event**”) as provided below. During a Force Majeure Event, LSP(s) and Chemonics will discuss the continued and uninterrupted provision of Services and Chemonics will reasonably consider any request by LSP(s) to alter the performance and deliverable timelines for a limited period of time, but in no case longer than thirty (30) days. For purposes of clarity, the parties agree that a Force Majeure Event shall not excuse performance by LSP(s) hereunder.

Within twenty (20) Business Days after the Effective Date, LSP(s) shall develop for Chemonics’s approval a plan to reasonably deal with a Force Majeure Event (such plans and any plan Chemonics may adopt to deal with any of Force Majeure Event, a “**Contingency Plan**”) describing the measures it will take in the event of a Force Majeure Event. Each Contingency Plan must address the following:

- a. Provisions covering the total or partial loss of each facility and the product contained in it or the total or partial loss of the ability to complete the SOW/SOP;
- b. Temporary arrangements for shipments to and/or from alternative facilities;
- c. Prompt restoration of warehousing services and shipment processing at an alternative facility; and
- d. For facilities where LSP(s) maintains computer hardware or software for operations, including shipment tracking there, shall be provisions for maintenance of software and data in segregated, offsite locations; and for hardware at alternative locations.

Immediately upon occurrence of any Force Majeure Event, LSP shall implement the relevant Contingency Plan(s) approved by Chemonics and, unless the parties agree otherwise, make best efforts to recover data and resume operations within forty-eight (48) hours thereafter. LSP(s) will also assist Chemonics to implement any Contingency Plan adopted by Chemonics to the extent it relates to or impacts the Services.

VI. Chemonics Responsibilities

1. The Chemonics representative will coordinate with the LSP’s designated point of contact on a regular basis to inform him/her when new logistics orders and delivery orders will be expected. The Chemonics representative will have access to inspect such goods in the Warehouse to ensure that the goods are maintained in good condition and to coordinate inventory lists as needed.
2. Chemonics will provide the LSP with a logistics order notification for inbound shipments (from supplier to warehouse) including applicable purchase order references, shipment instructions and agreed delivery dates. Chemonics will make best efforts to ensure this notification includes relevant data, such as, stock code(s) and description(s) of products, and number of pallets/packages.
3. Chemonics will use its best efforts to provide the LSP a delivery order and any applicable security information available to the project at least 48 working hours prior to required dispatch, consisting of types of products to be picked and bundled, quantities, and delivery locations.
4. Chemonics retains the right to procure similar services from other sources. Chemonics does not guarantee or commit to any specific number or amount of shipments, volume, tonnage, services, or revenue to the LSP. Any volume or other requirement forecasts provided to the LSP by Chemonics

shall be estimates only and shall be non-binding and create no legal obligation on Chemonics.

VII. Deliverables and Reports**

LSP(s) shall send to Chemonics the following reports, in accordance with the schedule set forth below or as mutually agreed, to facilitate communication and management of activities and general management of the contract.

Activity	Deliverable Title	Deliverable Description	Timing
Inbound Pallet Processing	Inventory Activity Report	All commodities Received for the period with transaction references (PO numbers, ASN no., MAWB no. for all Inbound as applicable) *can be combined with outbound report, if both happened in same month	5 days after the end of the month
	POD receiving documents	signed POD (or ePODs when available)	
Outbound Pallet Processing and Pick/Bundling, Loading, Dispatch	Inventory Activity Report	All commodities issued for the period with transaction references *can be combined with inbound report, if both happened in same month	5 days after the end of the month
	PODs/ePODs	LSP(s) shall send copies of the PODs (or ePODs when available) signed by the party responsible for transportation as evidence of handing over the picked and packed orders to the responsible party.	
Warehouse Storage per pallet and less than pallet quantities (monthly)	Monthly Consolidated Report	Report of current stocks summarizing receiving, distributing and final stock on a monthly basis. The report will show in summary the initial quantity in stock at the beginning of the month, the quantity received, the quantity distributed and the final stock at the end of the month. This report will also show the total number of pallets used during the month.	5 days after the end of the month
	Monthly Stock Update	Monthly up-dates of stock issued, received, and on hand, value of products received, issued and on hand (per line item).	
	Dispatch by Location	This report contains a list of commodities sent to different locations with quantities and values.	

Activity	Report Title	Report Description	Timing
Inbound Pallet Processing	Inbound shipment arrival notification	Warehouse shall inform via email all parties on a pre-approved recipients distribution list with the following information: 1. Subject line: Inbound Shipment Arrival Notification – PFRU 2. Body of email: Please be aware that a shipment has arrived on mm/dd/yy. *Details: a. RO Number/ASN - PO Number	Within 24 hours after the completion of the delivery of new consignments

Activity	Report Title	Report Description	Timing
		<p>b. Information on the waybill/ POD regarding number of pallets/cartons</p> <p>c. Status of delivery- complete / incomplete</p> <p>Attachments: Signed POD/receiving report</p>	
	Detailed receiving report	LSP(s) shall send a detailed receiving report to all parties on a pre-approved email distribution list that includes a list of the commodities received, quantities, and details on any pallet reconfigurations, re-palletization.	Within 24 hours of inbound shipment arrival, or within the time period agreed upon for special or large shipments
Outbound Pallet Processing	PODs/ePODs	LSP(s) shall send copies of the PODs (or ePODs when available) signed by the party responsible for transportation as evidence of handing over the picked and bundled orders to the responsible party.	Within 24 hours of dispatch of outbound shipments
Warehouse Storage Per Pallet and Less than Pallet Quantities (monthly)	Stock Summary Report	LSP(s) shall send a detailed and validated Stock Summary Report to all parties on a pre-approved email distribution list. This report details the stock on hand by product at opening of business every Monday (including product description, quantities, values, stock issued and received in the previous week, details on all orders packed and bundled the previous week, and the opening and closing balance for the previous week. Separate tabs should be included, which contain information on any damages, and returns.	Every Monday by 5 P.M.
General Management	Insurance claim	Provide copies of any insurance claim filed on behalf of PFRU for products lost or stolen from the Warehouse or during transportation.	Within 24 hours after a claim is filed
	Incident Reporting	Report any incidences of loss or damage to the commodities in the Warehouse, during transit, or any event that can affect the integrity of the commodities including: fire, dampening/wetting of commodities in stock due to leaking roof or flooding, etc.	Immediately

****Content will be developed further based on the successful Tenderer's proposal.**

The LSP(s) must ensure that at all times, the total value of stock in any warehouse can be ascertained. Unit prices of commodities must be continually updated as the need arises and must be captured on all reports and documents (e.g PODs, delivery notes etc).

Annex 1 Cover Letter

[Tenderer: Insert date]

[Insert name and contact information of point of contact for ITT]
Reference: Invitation to Tender [Insert ITT name and number]
Subject: Declarations

Dear [Insert name of point of contact for ITT]:

[Tenderer: Insert name of your organization] is pleased to submit its proposal in regard to the above-referenced request for proposals. For this purpose, we are pleased to provide the information furnished below:

Name of Tenderer _____
Name of Organization's Representative _____
Taxpayer Identification/VAT Number _____
Address _____
Telephone _____
E-mail _____
Type of Organization* _____

**Commercial, Non-profit, Educational, Other*

Small, medium or micro enterprise (SME)?** Yes No

***An SME is defined in accordance with the European Commission as having less than 250 persons employed and an annual turnover of up to EUR 50 million, or a balance sheet total of no more than EUR 43 million.*

As required in the Key Procurement Information, we confirm that our tender, including the commercial proposal will remain valid for [insert number of days] calendar days after the proposal deadline.

We are further pleased to provide the following annexes containing the information requested in the ITT:

[Tenderers: It is incumbent on each Tenderer to clearly review the ITT and its requirements. It is each Tenderer's responsibility to identify all required annexes and include them]

- Copy of registration or incorporation in the public registry, or equivalent document from the government office where the Tenderer is registered.
- Copy of company tax registration, or equivalent document.
- Copy of trade license, or equivalent document.

As part of our offer [Name of Tenderer] provides the following self-declarations:

- [Name of Tenderer] is able to comply with the proposed delivery of performance schedule having taken into consideration all existing business commitments.
- [Name of Tenderer] has adequate financial resources to manage this contract.
- [Name of Tenderer] is up to date with its tax, social and labour obligations.
- [Name of Tenderer] certifies that our organisation currently maintains all insurances required by the governing law applicable to our jurisdiction and appropriate to the services/commodities we will be providing under the prospective contract.
- [Name of Tenderer] certifies that in carrying out the services mentioned below, equipment or services produced by the following companies will not be procured for use by Chemonics: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company.

- [Name of Tenderer] has does not have any close, familial, or financial relationships with Chemonics staff. For example, if a Tenderer's cousin is employed by Chemonics, the Tenderer must state this.
- [Name of Tenderer] has does not have any family or financial relationship with other Tenderers submitting proposals. For example, if the Tenderer's father owns a company that is submitting another proposal, the Tenderer must state this.
- [Name of Tenderer] is is not aware of any conflict of interest due to the participation in the ITT and prospective contract.
- [Name of Tenderer] certifies that the prices in the offer have been arrived at independently, without any consultation, communication, or agreement with any other Tenderer or competitor for the purpose of restricting competition.
- [Name of Tenderer] certifies that all information in the proposal and all supporting documentation are authentic and accurate.
- [Name of Tenderer] certifies understanding and agreement to Chemonics' prohibitions against fraud, bribery and kickbacks contained on page 2 of this ITT.
- [Name of Tenderer] understands the personal data requirements under this contract and can implement the appropriate technical and organisational measures to comply with applicable data protection laws (i.e GDPR, DPA 2018) and to ensure the protection of the rights of data subjects.

Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below:

- Participate in a criminal organization Yes No If yes, provide details.
- Corruption Yes No If yes, provide details.
- Fraud Yes No If yes, provide details.
- Terrorist offences or offences linked to terrorist activities Yes No If yes, provide details.
- Money laundering or terrorist financing Yes No If yes, provide details.
- Child labour and other forms of human trafficking Yes No If yes, provide details.

I declare that to the best of my knowledge the answers submitted, and information contained in this document are correct and accurate.

[TENDERERS: *Delete this section prior to signature.* This self-declaration is used by Chemonics to assess that Tenderers meet our expectations of our supply partners. If you seriously misrepresent any factual information in this Annex 1, and so induce Chemonics to enter into a contract, you may be excluded from the procurement procedure and from partnering with Chemonics in the future. If a purchase order has been entered into, the contract may be terminated for default].

By submitting this Tender, we explicitly consent to all requirements and conditions stipulated in ITT and declare that we will continue to comply therewith throughout the entirety of the contract period. Furthermore, we confirm that we offer the rates as provided in the attached Tender.

Sincerely yours,

Signature

[Tenderer: Insert name of your organization's representative]

[Tenderer: Insert name of your organization]

Annex 2 - Chemonics Tendering Conditions:

The following Ethical and Business Conduct requirements, Definitions and Terms form a material part of the ITT.

Ethical and Business Conduct Requirements

Chemonics is committed to integrity in procurement, and only selects suppliers based on objective business criteria such as price and technical merit. Chemonics expects suppliers to comply with our Standards of Business Conduct, available at <https://www.chemonics.com/our-approach/standards-business-conduct/> and the FCDO Supplier Code of Conduct available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043334/Supply-Partner-Code-of-Conduct1.docx.odt.

Chemonics does not tolerate fraud, collusion among Tenderers, falsified proposals/bids, bribery, or kickbacks. Any firm or individual violating these standards will be disqualified from this procurement, barred from future procurement opportunities, and may be reported to Chemonics' Client.

Tenderers will ensure they comply with all applicable laws and regulations in force of the country in which the Tenderers is registered and the country where the services are to be wholly or partially performed, including, but not limited to tax laws, environmental, legal and social obligations, anti-corruption laws, anti-bribery laws and anti-terrorism laws. The Tenderers also represents that neither it, nor to the best of its knowledge any of its personnel, servants or agents or any person acting on its behalf, have at any time prior to and during the term of this proposal appeared on the Home Office Proscribed Terrorist Organisations List and/or the Consolidated United Nations Security Council Sanctions List.

The Tenderers must certify that the Tenderers, or its principals, is not debarred, suspended, or proposed for debarment or declared ineligible for award by any UK department or agency or by the U.S. OFAC (Office of Foreign Assets Control List) of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>.

Chemonics takes a zero-tolerance approach towards human trafficking consistent with the United Kingdom Government's anti-trafficking and safeguarding efforts guided by Safeguarding Vulnerable Groups Act 2006. The Tenderers shall therefore comply with, all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including the Modern Slavery Act 2015.

The Tenderers warrants that at the time of submitting this proposal they are not aware of any present or future matter that may give rise to any real or perceived conflict of interest with this proposal and/or the Project. If a real or perceived conflict of interest arise, the Tenderers will notify Chemonics immediately in writing.

Employees and agents of Chemonics are strictly prohibited from asking for or accepting any money, fee, commission, credit, gift, gratuity, object of value or compensation from current or potential vendors or suppliers in exchange for or as a reward for business. Employees and agents engaging in this conduct are subject to termination and will be reported to Chemonics' Client. In addition, Chemonics will inform its Client of any supplier offers of money, fee, commission, credit, gift, gratuity, object of value, or compensation to obtain business.

Please contact the Point of Contact or Chemonics Office of Business Conduct listed in the Key Procurement Information with any questions or concerns regarding the above information or to report any potential violations.

Annex 3 - Chemonics Tender Insurance and Risk Evaluation:

Name and Location (Address; Operator): _____

Opening hours and days: _____

Warehouse Contact: _____

Warehouse Management: Subcontractor Chemonics staff

Stock description (brief): _____

Stock type (check all that apply): standard pharma grade cold chain

Construction (type of construction of the warehouse and year it was built):

Building construction: concrete metal wooden other - _____

Year of construction: _____

Detached building: YES NO

If No, describe fire protection measures: _____

Total Ambient storage area: _____ square meter

Total Ambient Pallet Spaces: _____ Total Ambient Pallet Spaces dedicated to Chemonics: _____

Total Cold Chain storage area: NOT REQUIRED SERVICE

Total Cold Chain Pallet Spaces: NOT REQUIRED SERVICE _____

Total Frozen storage area: NOT REQUIRED SERVICE

Pallet Type Preference (e.g. Euro pallet): _____

No' of Unloading docks and/or doors: _____

No' of 40' shipping containers/ that can be unloaded in one day (please specify most ever done/common): _____

Does warehouse shipping clerk/manager have the capacity to scan/email Proof of Delivery's (POD) upon consignment arrival (yes/no): _____

Occupancy (what proportion of the warehouse is occupied by Chemonics? List other potential occupants if known or types of products stored.):

Protection (insert details of protection in place for Fire, Flooding and Security):

Fire (fire extinguishers, sprinkler system, alarm types, fire department access, water hoses, etc):

fire extinguishers: provide details: _____

sprinklers: provide details: _____

local fire department access: provide details: _____

alarms: provide details: _____

water hose: provide details: _____

smoke detectors: provide details: _____

Additional information as applicable:

Security (alarms, watchman service, etc):

fenced: provide details: _____

CCTV – interior CCTV – exterior

alarm: provide details: _____

watchman service 24 hour

Other protection systems: **YES (describe)** _____

Flooding, is the warehouse in a flood zone: yes no information unavailable

Describe flood prevention measures as applicable: _____

Commodity Estimated Valuation:

Provide average value of cargo in store: \$ 6Million USD

Provide maximum value of cargo in store: \$ 10Million USD at any one point

Annex 4. Terms and Conditions of the Tender

The following terms and Conditions apply to this ITT

- a) This is an invitation to tender (ITT) only. Issuance of this ITT does not in any way obligate Chemonics, the Project, or Chemonics Client to make an award or nor does it commit Chemonics to pay any costs incurred in the preparation and submission of the proposals. *
- b) Chemonics may cancel this ITT at any time.
- c) Late tenders may be considered at the discretion of Chemonics.
- d) Chemonics reserves the right to reject any and all offers, if such action is considered to be in the best interest of Chemonics.
- e) If there are significant deficiencies regarding responsiveness to the requirements of this ITT, a tender may be deemed “non-responsive” and thereby disqualified from consideration. Chemonics reserves the right to waive immaterial deficiencies at its discretion.
- f) Complaints/Appeals: The Tenderer agrees that any complaint or appeal hereunder must be presented—in writing with full explanations—to the Point of Contact in the Key Procurement Information in Volume 1 for consideration. Chemonics, at its sole discretion, will make a final decision on the complaints/appeals for this procurement. By submitting a Tender hereunder, the Tenderer understands that the Authority/Chemonics Client is not a party to this solicitation and will not entertain appeals from Vendors/Subcontractors.
- g) Tenders must provide their best offer. It is anticipated that award will be made solely based on these original offers. However, Chemonics reserves the right to conduct negotiations with and/or request clarifications from any Tenderer prior to award.
- h) The Agreement issued by Chemonics will contain provisions required by the Authority and will be subject to Chemonics’ standard terms and conditions. A copy of the general terms and conditions, including insurance and liability provisions applicable to this procurement, is included in this annex.
- i) An Agreement resulting from this ITT will only be issued to the entity submitting the tender in response to this ITT; payments for Commodities or Services provided under such will not be issued to a third party.
- j) Tenders are encouraged to view [Chemonics Data Privacy Policies](#) to see how we process your personal data.

The following general terms and conditions will be applicable to an award hereunder:

Section 11. Warranties and Performance Standards:

LSP agrees to provide the Services required hereunder in accordance with the requirements set forth in this Agreement and PO issued under it. LSP undertakes to perform the Services hereunder in accordance with the highest standards of professional and ethical competence and integrity in the LSP’s industry and to ensure that personnel assigned to perform any Services under this Agreement and PO will conduct themselves in a manner consistent therewith. The Services will be rendered by the LSP (1) in an efficient, safe, courteous, and business-like manner; (2) in accordance with any specific instructions issued from time to time by Chemonics; and (3) to the extent consistent with items (1) and (2), as economically as sound business judgment warrants. LSP shall provide the Services of qualified personnel through all stages of this Agreement. LSP shall perform the Services as an

independent LSP with the general guidance of Chemonics. The LSP's employees shall not act as agents or employees of Chemonics.

(b) Chemonics reserves the right to request the replacement of LSP personnel and may terminate a PO due to non-performance by the LSP in accordance with the termination provisions herein.

(c) Chemonics will use a variety of mechanisms to stay abreast of the LSP's performance under this VFA and any PO issued hereunder, and of general progress toward attainment of the PO objectives. These may include:

- Business meetings between the project team, Chemonics and LSP
- Feedback from key partners
- Site visits by Chemonics personnel
- Reports

(d) Should Chemonics determine nonadherence to performance standards and/or contract provisions outlined herein or in a PO, the LSP will be notified in writing of the actions or performance measures that need improvement. Chemonics may request a formal written plan (Corrective Action Plan) to correct the contract compliance or performance issues that have impacted the provision of quality services. Failure to submit a plan within the requested timeline will be considered non-performance and subject to paragraph (b) above.

(e) Evaluation of the LSP's overall performance under this Agreement and any PO shall be conducted by Chemonics. In addition to review of LSP's reports and deliverables, Chemonics shall review the quality of performance against monthly key performance indicators ("KPI"). KPIs will be used as a basis for continuous improvement efforts by the LSP. Performance reviews may be held between the Vendor and Chemonics at a mutually agreed schedule. If the LSP fails to meet any KPI, the timelines for addressing the deficiency as agreed within the corrective action plan will take effect. The LSP will provide the Chemonics designated project representative in the timeline requested, a proposed action plan setting forth the actions the Vendor will take in order to promptly comply with all KPIs. The KPIs shall be tracked and monitored as applicable to an Order.

Section 12. Title To and Use of Commodities/Products:

The LSP will hold products/commodities tendered for services pursuant to this Agreement as directed by Chemonics and for no other purpose, use or disposition except as may be directed in writing by Chemonics. The LSP shall take all direction and instructions as pertains to Chemonics products/commodities from the designated representatives and in accordance with the applicable scope of work, terms and conditions. The LSP shall act as a service provider and does not acquire ownership in respect of the goods stored in the warehouses or transported.

All right, title and interest to such products will remain at all times with Chemonics on behalf of FCDO or other Chemonics client, unless expressly stated otherwise in an Order. LSP may hold all such products as a bailee only and will not permit any lien or other encumbrance to be placed against the product when in LSP care, custody and control. LSP shall not carry out any action or adopt any behavior that might create the impression that a property right exists in its favor in the products. LSP shall not confer any surety or preferential right on the products and shall not carry out any action or deed of a nature to restrict or prejudice the property right held by the Customer in the products. LSP shall immediately inform the Customer about any such action or deed carried out by any third party including, but not limited to, its creditors.

LSP shall, to the extent possible, keep the products separate in a dedicated area and at all times, capable of identification as the property of the Chemonics.

Under no circumstances in the event of a dispute between the parties will LSP deny Chemonics, its agents or contractors, access to any Facility to inventory and/or remove product/commodities.

Chemonics will have the right to seek specific performance and any other remedies available to it, and to recover attorney's fees, should LSP breach this obligation.

Section 13. Reporting and Technical Direction:

The LSP shall deliver or render the Services stipulated in the PO, under the general technical direction of Chemonics Project Officer designated in the cover page of the PO, or designee. The Project Officer or designee will be responsible for monitoring the LSP's performance and inspecting and accepting all Commodities and/or Services under the PO. The LSP shall not communicate directly with FCDO during the performance of this Agreement.

Section 14. Invoicing and Payment

The following procedures apply for the payment of any invoice resulting from a PO issued under this VFA:

14.1. Invoicing for Fixed Price and Fixed Unit rate PO:

Upon Chemonics Project Officer's acceptance of the PO Services in accordance with applicable terms of the VFA and Attachments hereto, and the conditions and requirements described in the applicable PO, the LSP shall submit an invoice to Chemonics for payment. Invoices shall be submitted in accordance with the payment schedule or invoicing requirements. The invoice shall be sent to the attention of the Chemonics Paying Office and shall include the following information: a) VFA and PO number, b) the LSP's name or trading name and address, c) LSP's VAT registration number (if applicable), d) invoice number and date (in the event an invoice requires edits or corrections, the LSP shall update the date of invoice to coincide with the date the invoice is resubmitted), e) tax date for U.K. vendors only (the date of supply which is also known as tax point – if different from the invoice date), f) Chemonics' name and address as included in the cover-page, g) a description of the Commodities and/or Services delivered and accepted with corresponding fixed price or fixed unit rate, h) total amount due in the currency as listed on or calculated from the applicable Schedule of Prices; and i) payment address/bank account number. Payment will only be issued to the LSP identified on the PO cover page; payment will not be issued to a third party.

The LSP shall attach to each invoice applicable deliverables/records for the Services, together with all supporting documentation and/or reports, including receipts as required, a list of Services to which the invoice relates and a reference to the Agreement and Schedule of Prices and Rates, as well as any other information as reasonably requested by Chemonics from time to time.

14.2 Payment:

Chemonics will pay the LSP's invoice within thirty (30) calendar days after both a) Chemonics' approval of the LSP's Commodities or acceptance of Services, and b) Chemonics' receipt of the LSP's valid invoice. Where an invoice is not a Valid Invoice it may be rejected by Chemonics and in any event shall be liable to query and delay in payment. Queries regarding LSP validity of invoices shall be addressed first to the Paying Office and shall be resolved without delay. Disputed invoices not resolved in the normal course of business, shall be resolved based on the procedures under the Section on "Governing Law and Resolution of Disputes" herein. Chemonics reserves the right to not pay any amount due in respect of any invoice received by Chemonics more than 90 days after the day of the LSP becoming entitled to invoice for the payment to which it relates.

Section 15. Taxes and Duties

The prices under this VFA and all PO include all taxes, VAT, tariffs, duties, or other levies imposed by any laws in effect in the Country of Performance with the exception of VAT in the U.K. which shall be added at the prevailing rate as applicable and paid by Chemonics following delivery of a valid invoice.

If, at any point during the period of performance, an Occasion of Tax Non-Compliance occurs, the Vendor shall:

- (1). notify Chemonics in writing of such fact within 5 Working Days of its occurrence.
- (2). promptly provide to Chemonics: (A) the details of the steps which the Vendor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and (B) such other information in relation to the Occasion of Tax Non-Compliance as Chemonics may reasonably require.

Section 16. Set-Off Clause

Chemonics reserves the right of set-off against amounts payable to the LSP under this Agreement or any other agreement the amount of any claim or refunds Chemonics may have against the LSP.

Section 17. Governing Law and Resolution of Disputes

- a. *Governing Law.* This Agreement, including any disputes related thereto, shall be governed by the laws of England and Wales.
- b. *Disputes between the Parties.* The following procedures shall govern the resolution of any controversy, dispute or claim between or among the "Parties," arising out of the interpretation, performance, breach or alleged breach of this PO ("Dispute").
 - (1) *Negotiation.* The Parties shall promptly attempt to resolve any Dispute by negotiation in the normal course of business. If, after good faith efforts, the Dispute is not resolved, either Party may request in writing that the Dispute be resolved via Executive Consultation pursuant to subparagraph (b)(2) below.
 - (2) *Executive Consultation.* For Disputes submitted to Executive consultation, each party shall designate a senior company official with authority and responsibility for attempting to resolve the matter. For Chemonics, such designee shall be a Senior Vice President, or a person at a higher level of authority. For the LSP, such designee shall be an authorised signatory with equivalent authority, or higher. The Party initiating the claim shall provide, in addition to documents supporting the claim, a brief summary of the claim, its perception of the positions of the Parties, and any perceived barriers to settlement of the case. The summary may be submitted directly to the designated Party Executive. Within 30 calendar days after delivery of the claim summary, the Parties shall meet and attempt to resolve the Dispute. If the Dispute is not resolved within 45 days from submission of the claim

summary, or such other amount of time as agreed between the parties, the claiming Party may proceed under subparagraphs 3 and 4 below.

- (3) *Mediation and Arbitration*: Any Dispute between the Parties arising out of, or relating to, this Agreement issued under, or the breach thereof, that has not been resolved by Executive Consultation, shall be referred by the Parties to mediation in accordance with the procedures of the Centre for Effective Dispute Resolution (CEDR) in London, United Kingdom. If the Parties fail to agree on the terms of settlement within 90 calendar days of the initiation of the procedure, the Dispute may be referred to an arbitrator as agreed between the parties or failing such agreement as may be nominated by the President of the Law Society of England and Wales upon application of any Party. Initiation of the procedure is defined as the written request to CEDR by any Party for mediation provided that such request is copied to the other Party. The decision of the arbitrator shall be final and binding on both Parties. The arbitrator shall not be empowered to award (i) any special, incidental, indirect, or consequential damages, or (ii) lost profits, loss of revenue, loss of goodwill or anticipated savings, or similar economic injury, and each Party expressly waives and foregoes any right to punitive, exemplary or similar damages. Each Party will bear the cost of its own Attorney-Fees. The arbitration shall be in London, United Kingdom.
 - (4) *Obligation to perform work*. LSP shall diligently proceed with the performance of work pending final resolution of any Dispute.
- c. The LSP acknowledges and agrees that it has no direct action against the U.K. Government for any claims arising under this Agreement under it.

Section 18. Indemnity

Each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party (the "Indemnified Party"), on a several basis and to the fullest extent permitted by applicable law, from and against any and all liabilities, fines, costs, expenses (including reasonable attorneys' fees), damages and losses incurred by the Indemnified Party as a result of any claims (including claims for death, injury and damages) or demands (hereinafter "Claims") brought or made against the Indemnified Party by any third parties as a result of any grossly negligent acts or omissions of the Indemnifying Party or any of their respective employees, agents or subcontractors in the performance of the Indemnifying Party's responsibilities under this Agreement and any PO.

LSP shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that LSP has notice or is given prompt written notice of such claim or suit. LSP shall not settle, compromise or discharge any pending or threatened suit, claim or litigation, arising out of, based upon, or in any way related to the subject matter of this Agreement, or PO hereunder, and to which Chemonics is or may reasonably be expected to be a party, unless and until LSP has obtained a written agreement, approved by Chemonics (which shall not be unreasonably withheld) and executed by each party to such proposed settlement, compromise or discharge, releasing Chemonics from any and all liability for which Chemonics is indemnified hereunder.

Nothing in this Agreement shall limit or exclude either party's liability for: death or personal injury caused by its negligence or that of its employees, agents or subcontractors (as applicable); fraud or fraudulent misrepresentation by it or its employees; breach of any obligation as to title implied by section 12 of the UK Sale of Goods Act 1979 or section 2 of the UK Supply of Goods and Services Act 1982; or any liability to the extent that it cannot be limited or excluded by law. Subject to this, Chemonics's entire liability for claims arising from or related to any PO will in no event exceed the total PO Value. Except for indemnification obligations, neither the LSP nor Chemonics will have any liability arising from or related to this Agreement for (i) special, incidental, exemplary, or indirect damages, or for any economic consequential damages, or (ii) lost profits, business, revenue, goodwill or anticipated savings, even if any of the foregoing is foreseeable or even if a party has been advised of the possibility of such damages. The LSP's total liability to Chemonics, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with any PO issued hereunder shall be limited under Section 24 or as specifically stated in a PO.

Section 19. Force Majeure.

The LSP shall be liable for default unless non-performance is caused by an occurrence beyond the reasonable control of the LSP and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The LSP shall notify Chemonics in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Chemonics of the cessation of such occurrence. Where Chemonics receives a Force Majeure Notice, from the date of receipt of the Force Majeure Notice, Chemonics may, at its sole discretion, either suspend this Agreement for a period of up to six (6) months ("the Suspension Period") or terminate this Agreement forthwith.

Section 20. Variation

Chemonics may at any time, by written order, and without notice to the sureties, request a variation provided that such variation does not amount to a material change of the PO within the meaning of the Regulations and the Governing Law per Section 17 above. If any such changes cause an increase or decrease in the price, or the time required for the performance, of any part of the work under the PO, an equitable adjustment shall be made in the PO price or delivery schedule, or both, and the PO shall be modified in writing accordingly. Any claim by the LSP for adjustment under this PO must be asserted within thirty (30) calendar days from the date of receipt by the LSP of the modification or variation.

Section 21. Termination without Default of the LSP:

Chemonics reserves the right to terminate this Agreement, or any part hereof, for its sole convenience. In the event of such termination, the LSP shall immediately stop all work hereunder and shall immediately cause any and all of its vendors and subcontractors to cease work. Subject to the terms of this Agreement, the LSP shall be paid for the approved time and expenses incurred for work performed prior to the notice of termination, plus reasonable charges the LSP can demonstrate to the satisfaction of Chemonics using its standard record keeping system, that have directly resulted from the termination. The LSP shall not be paid for any work performed or costs incurred which could have been reasonably avoided, mitigated or recovered.

Section 22. Termination with Default of the LSP:

Chemonics may terminate this Agreement, or any part hereof, for cause in the event of any default by the LSP, or if the LSP fails to comply with any terms and conditions, or fails to provide Chemonics, upon request, with adequate assurances of future performance. In the event of termination with default, Chemonics shall not be liable to the LSP for any amount for Commodities or Services not accepted, and the LSP shall be liable to Chemonics for any and all rights and remedies provided by law. If it is determined that Chemonics improperly terminated a PO with default, such termination shall be deemed a termination without default of the LSP pursuant to Section 21 above.

Section 23. Insurance

Prior to starting work, the LSP at its own expense, shall procure and maintain in force, on all its operations, insurance in accordance with applicable local law and requirements in addition to requirements herein or as may be specifically required in a PO. The policies of insurance shall be in such form and shall be issued by a reputable insurance broker or company registered and operating in the Country of Performance. The LSP shall not cancel any policies of insurance required hereunder before completion of the work without written consent of Chemonics.

- a. Commercial general liability insurance with a combined bodily injury and property damage (other than goods/products) with a minimum single limit of \$1,000,000 per occurrence which covers, at a minimum, premises, independent contractor, contractual liability, personal and advertising injury, and broad form property damage with no care, custody and control exclusion, and with no copyright infringement, trade secrets or software code exclusions;
- b. Warehouse keeper's liability insurance with limits and coverage sufficient to cover the LSP's contractual liabilities under this agreement but at a minimum \$5,000,000 limit per occurrence;
- c. Professional liability in an amount of \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate along with a certificate certifying that there is no security breach or unauthorized access exclusion on this policy;
- d. Comprehensive logistics liability insurance in order to cover its contractual liability as assumed under the Agreement and PO with a policy limit of a minimum \$1,000,000 per occurrence and \$10,000,000 in the annual aggregate including but not limited to the following cover elements:
- e. Goods in Transit Cargo liability coverage for transit, forwarding and storage for cargo damages or losses from time the goods are received by the LSP until they are delivered to a designated recipient for full replacement value of commodities being transported for the duration of the activity. Upon request, the proof of insurance shall be submitted at award prior to commencement of the activity. The coverage shall meet the following requirements:
 - i. Coverage: All risks including Accidental damage, Fire, Theft, Dishonest Acts, Quake, Flood, and Wind as well as War Clauses and Strikes clauses as applicable. There is no security breach or unauthorized access exclusion on this policy.
 - ii. Product insured: all commodities transported under the subcontract.
- f. Workers' compensation insurance in accordance with the applicable laws of the states or countries where the LSP performs Services hereunder.
- g. Employer's liability insurance in accordance with the applicable laws of the states or countries where the LSP performs Services hereunder.
- h. "All risk" Property (or at least Material) Damage policy covering any equipment, premises, buildings used in providing the services and for which the Vendor has a liability for maintenance and/or which is owned by the Vendor as well as Business Interruption risk insurance based on the following basis of valuation:

- Buildings – Cost of rebuilding
 - Equipment – Replacement costs of the equipment or parts of it
 - Business Interruption: GP for the 12 month period
- i. Comprehensive liability insurance for vehicles or other equipment operated, owned or leased by the LSP for the provision of services in accordance with the applicable laws of Poland and all locations where the LSP operates.

Each of the above coverages shall include all countries in which the LSP will provide services and may include as required worldwide coverage including coverage for United States or United Kingdom jurisdiction claims and occurrences. The LSP will deliver certificate(s) of insurance evidencing the coverage specified upon request. The LSP will not materially change, invalidate, cancel or change the required Insurance coverage affecting services provided hereunder and provide Chemonics at least thirty (30) days prior written notice of any cancellation or material change of such coverage.

Any cargo insurance applicable to this agreement as well as General Liability Insurance cover will include a waiver of underwriter's rights of subrogation against Chemonics.

LSP will be solely responsible for any deductible or self-insurance retentions. The stipulated limits of coverage above shall not be construed as a limitation or expansion of any potential liability to Chemonics, and failure to request evidence of this insurance shall in no way be construed as a waiver of the LSP's obligation to maintain such insurance.

The carrying of insurance as required herein by the LSP shall in no way be interpreted as relieving the LSP of its responsibility and other obligations under this agreement.

Section 24. Liability for Lost or Damaged Commodities/Products

- a. In performing the services pursuant to this Agreement, the LSP shall be liable for any lost or damaged products/commodities under the LSP's care, custody or control. To the extent the LSP uses any auxiliary employees or subcontractors, or other persons, to perform the services, the LSP shall assume full responsibility and liability pursuant to this agreement for the acts and omissions of such persons as if they were the LSP's own acts and omissions.
- b. Notice of Loss or Damage - Warehouse. The LSP will inspect all goods upon receipt at the facilities and report and take photos of any visible or suspicion of damage with notice of receipt, and if the LSP does not report damage related to inbound shipment within two working days of the goods arrival at the facilities managed by LSP, then the LSP shall be liable in full for any such loss or damage. The LSP shall remain responsible for the care, custody and control of the products/commodities according to the standards hereunder and LSP's SOPs while the products are in LSP's care, until the products are transferred to Chemonics' identified recipient.
- c. Notice of Loss or Damage – Freight Forwarding/Transport. LSP shall inspect cargo upon receipt – count, weigh, tally and examine the cargo before accepting or receiving. LSP shall note details of any damage or short cargo against the packing list and take pictures to document the extent of the damage. The LSP will notify Chemonics in writing of potential loss or damage to the goods handled by LSP that could give raise to a claim promptly after discovery of same, and in no case more than forty-eight (48) hours after confirmation of loss or damage. This includes (but is not limited to), incidents such as product damage prior to pickup, in transit temperature breach, commodity theft, and truck accidents. Such notice shall be considered within applicable timeframes for notifications to carriers under international standards and conventions.
- d. Valuation: Liability for cargo loss or damage to Chemonics' products shall be calculated based on cost of commodities/goods plus freight and insurance plus 10% for all commodities/products being transported for the duration of the subcontract.
- e. Beneficiary or Loss Payee: LSP shall be responsible for payment as direct reimbursement to Chemonics within 60 days of loss or damage, unless otherwise agreed in writing by both parties.
- f. LSP's maximum liability for claims arising from or related to loss or damages of Goods shall not exceed \$2,000,000 per occurrence and \$10,000,000 in the annual aggregate.
- g. Lost Goods Later Found. If any lost goods for which payment has been made to Chemonics are found or otherwise accounted for, and which are still in useable condition, are approved for distribution and delivered to an end-user/consignee, Chemonics shall reimburse the LSP for the amount paid.

Section 25. Compliance with Applicable Laws and Regulations:

The LSP shall comply with all applicable laws, ordinances, codes, regulations, and other authoritative rules of the United States, United Kingdom and of the Country of Performance and their political subdivisions and with the standards of relevant licensing boards and professional associations.

Section 26. Restrictions on Transacting with Terrorists, Suspected Terrorists or Blocked Individuals:

- a. The LSP shall not acquire for its use in the performance of this Agreement, any supplies or services if any proclamation, U.S. Executive Order, U.S. statute, or OFAC's (U.S. Department of the Treasury Office of Foreign Assets Control) implementing regulations (31 Code of Regulations Chapter V), that would prohibit such a transaction, as defined by law. This includes most transactions involving Cuba, Iran, Syria, and North Korea, and transacting, engaging, supporting or financing entities and individuals on OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>.
- b. Chemonics shall be at liberty to terminate this Agreement immediately at any time following any of the following conditions:
 - (1). The LSP is named on any list of suspected terrorists or blocked individuals maintained included in US Government OFAC List of Specially Designated Nationals and Blocked Persons or the Home Office Prescribed Terrorist Organisations List.
 - (2) HMG determines that the LSP is ineligible to receive U.K. funding pursuant to U.K. laws and regulations; or
 - (3) Notwithstanding any other provision of the Agreement, upon such termination the LSP shall have no right to receive any further payments.
- c. This clause applies to all Lower-Tier agreements issued under this Agreement.

Section 27. Compliance with Anti-Corruption, Prevention of Fraud and Bribery Regulations:

- a. The LSP represents and warrants that neither it, nor the best of its knowledge any LSP Personnel, any person acting on their behalf, have at any time prior to the Commencement Date: (1) committed a Prohibited Act under the United Kingdom Bribery Act 2010 ("Bribery Act 2010") or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act and/or (2) been listed by any HMG department or agency as being debarred, suspended, or proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- b. The LSP shall during the Term of the Agreement:
 - (1) Establish, maintain and enforce, and require its Personnel establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the relevant requirements and prevent the occurrence of a Prohibited Act, and
 - (2) Keep appropriate records of its compliance with its obligations per the above clause and make such records available upon request.
- c. Where the LSP or LSP Personnel, or any person acting on their behalf, commits any offence under the Bribery Act 2010, with or without the knowledge of the LSP, in relation to this Agreement with HMG, Chemonics shall be entitled to:
 - (1) Terminate the Agreement with immediate effect by written notice to the LSP and recover from the LSP the amount of any losses resulting from the termination;
 - (2) To recover from the LSP the amount or value of any such gift, consideration or commission;
 - (3) To recover from the LSP any other Losses sustained as result of any breach of this clause, whether or not the Agreement is terminated.
- d. For purposes of this Agreement "Prohibited Act" means
 - (1) to directly or indirectly offer, promise or give any person working for or engaged FCDO a financial or other advantage to
 - (a) induce that person to perform improperly a relevant function or activity or
 - (b) reward that person for improper performance of a relevant function or activity
 - (2) to directly or indirectly request, agree to receive or accept any financial or other advance as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement
 - (3) an offence: under the Bribery Act 2010 (or any legislation repealed or revoked by such Act), under legislation or common law concerning fraudulent acts, or defrauding, attempting to defraud or conspiring to defraud FCDO
 - (4) any activity, practice or conduct which would constitute one of the offences listed under
 - (5) above if such activity, practice or conduct had been carried out in the U.K.
- e. The LSP further represents and warrants that it shall also comply fully with the anticorruption laws, rules, and regulations of all countries in which it operates.
- g. When the LSP has reasonable grounds to believe that a violation described in paragraph (d) of this provision may have occurred, the LSP shall promptly report in writing the possible violation. Such reports shall be made to Chemonics' Office of Business Conduct via one of the following methods: businessconduct@chemonics.com; Online:

www.chemonics.com/reporting; Phone/Skype: 888.955.6881; WhatsApp: +1.202.355.8974, who shall forward the report to FCDO fraud investigation unit for investigation, as required.

Section 28. Confidentiality:

During the term of this Agreement and for three (3) years thereafter, the Parties agree to keep confidential all proprietary information related to security, finances or operations (“Confidential Information”) of the other Party, and shall not, without prior written consent of the disclosing Party, disclose to any unauthorised individual, third party, firm, corporation or entity such Confidential Information, except as may be necessary to perform its obligations under the Agreement, in which event the person receiving such Confidential Information must agree to be bound by the terms of this Section 28. The receiving Party agrees to safeguard and hold in strictest confidence all Confidential Information of the disclosing Party and agrees to destroy or return any and all Confidential Information upon the written request of the disclosing Party or completion or termination of the Agreement. Except as required in the performance of a PO, neither the PO nor the furnishing of any information hereunder by Chemonics shall grant the LSP, by implication or otherwise, any license under any invention, patent, trademark or copyright.

Section 29. Adult Vulnerability and Child Safeguarding

For the purposes of this Clause, “Reasonable Measures” shall mean:

- a. All reasonable endeavours expected to be taken by a professional and prudent vendor in the LSP’s industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the U.K. or an offence under the laws of the territory in which it takes place (together “Serious Misconduct”) as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):
 - (1) clear and detailed policies and guidance for LSP Personnel, LSP Providers and where appropriate, beneficiaries;
 - (2) developing, implementing and maintaining a safeguarding plan throughout the Term (including monitoring);
 - (3) provision of regular training to LSP Personnel, LSP Providers and where appropriate, beneficiaries
 - (4) clear reporting lines and whistleblowing policies in place for LSP Personnel, LSP Providers and beneficiaries,
 - (5) maintaining detailed records of any allegations of Serious Misconduct and regular reporting to the appropriate Authority and the Appropriate Authorities (where relevant) of any such incidents;
 - (6) any other Good Industry Practice measures (including any innovative solutions).
- b. The LSP shall take all Reasonable Measures to prevent Serious Misconduct by the LSP Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement (“LSP Providers”) and shall have in place at all times robust procedures which enable the reporting by LSP Personnel, LSP Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the LSP or LSP Personnel to investigate such reports.
- c. The LSP shall take all Reasonable Measures to ensure that the LSP Personnel and LSP Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the LSP Personnel or LSP Provider as to the age of the person. Furthermore, the LSP shall ensure that the LSP Personnel and LSP Providers do not engage in ‘transactional sex’ which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behaviour on the part of the LSP Personnel and the LSP Providers. For the avoidance of doubt, such ‘transactional sex’ shall be deemed to be Serious Misconduct in accordance with clause (a) of this section.
- d. The LSP shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the LSP Personnel and LSP Providers to Chemonics’s Office of Business Conduct via one of the following methods: businessconduct@chemonics.com; Online: www.chemonics.com/reporting; Phone/Skype: 888.955.6881; WhatsApp: +1.202.355.8974 or report directly to FCDO at reportingconcerns@fcdo.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.
- e. The LSP shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the LSP Personnel and LSP Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to the Authority as soon as is reasonably practicable.
- f. The LSP shall not engage as LSP Personnel or LSP Provider for the purposes of the Services any person whose previous record or conduct known to the LSP (or reasonably ought to be known by a diligent vendor which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.

g. The LSP shall comply with all applicable laws, legislation, codes of practice and government guidance in the U.K. and additionally, in the territories where the Commodities are delivered or Services being performed, relevant to safeguarding and protection of children and vulnerable adults, which the LSP acknowledges may include vetting of the LSP Personnel by the U.K. Disclosure and Barring Service in respect of any regulated activity performed by the LSP Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where the Authority reasonably believes that there is an increased risk to safeguarding in the delivery of the Commodities or performance of the Services, the LSP shall comply with any reasonable request by the Authority for additional vetting to be undertaken.

Section 29. Intellectual Property Rights:

Save as expressly granted elsewhere under this Agreement:

- a. Chemonics shall not acquire any right, title or interest in or to the Intellectual Property Rights (IPR) of the LSP or its licensors, namely:
 - (1) the LSP Background IPR; and
 - (2) the Third Party IPR.
- b. the LSP shall not acquire any right, title or interest in or to the Intellectual Property Rights of Chemonics or FCDO or its licensors, including the:
 - (1) Chemonics or FCDO Background IPR;
 - (2) Chemonics or FCDO Data;
 - (3) Programme Name and any rights and interests in it at all times.
- c. Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Section 29 (a) and (b), it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
- d. Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- e. Project Specific IPRs regarding research methodology and tools created under this Agreement shall be owned by the LSP. Chemonics and the Authority grants the LSP a licence to use any of Chemonics' or the Authority's Background IPR for the purpose of fulfilling its obligations under this Agreement during its Term. The LSP grants to Chemonics and the Authority (including PFRU Donors and the Government of Ukraine) a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit these Project Specific IPRs, including for any future contracts with alternative Suppliers. Remaining Project Specific IPRs, including but not limited to data collected and processed under this contract, shall be owned by the Authority. Chemonics and the Authority grants to the LSP a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit the Project Specific IPRs owned by Chemonics and the Authority.
- f. Subject to Section 29 (h), to the extent that it is necessary to enable FCDO to obtain the full benefits of ownership of the Project Specific IPRs, the LSP hereby grants to Chemonics and Chemonics in turn to FCDO and shall procure that any relevant third party licensor shall grant to Chemonics and FCDO a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit any LSP Background IPRs or Third Party IPRs that are embedded in or which are an integral part of the Project Specific IPR Items.
- g. The LSP shall promptly notify Chemonics if it reasonably believes that it will be unable to grant or procure the grant of the licences set out in Section 29 (e) and (f) above and the LSP shall provide full details of the adverse effect this may have on Chemonics and FCDO's use of the Project Specific IPRs. Chemonics and the Authority shall promptly notify the LSP if it reasonably believes that it will be unable to grant or procure the grant of the licences set out in Clause 29 (e) and Chemonics and the Authority shall provide full details of the adverse effects this may have on the LSP's use of the Project Specific IPRs owned by Chemonics and the Authority.
- h. Where the LSP is unable to comply with Section 29 (f), the LSP shall refrain from embedding or integrating any LSP Background IPRs and/or Third Party IPRs with the Project Specific IPRs in such a way that could affect FCDO obtaining full benefit of the ownership of those Project Specific IPRs, except where FCDO though Chemonics has provided express written Approval to do so.
- i. The LSP shall, during and after the Term, on written demand indemnify Chemonics against all Losses incurred by, awarded against, or agreed to be paid by Chemonics (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR claim.
- j. If an IPR claim is made or anticipated, the LSP must at its own expense and Chemonics' sole option, either:
 - a. procure for Chemonics the rights in Clause 29 (f) without infringing the IPR of any Third Party; or
 - b. replace or modify the relevant item with non-infringing substitutes with no detriment to functionality of performance of the Services

Section 30. Duty of Care:

Performance of this Agreement may involve work under dangerous and austere conditions that include, without limitation, social and political unrest, armed conflict, criminal and terrorist activity, unsanitary conditions, and limited availability of health care. The LSP warrants that it has assessed and evaluated the location of performance and nature of the work including, without limitation, local laws, regulations, operational and security conditions and assumes all risks of performance including injury to

LSP personnel and loss of damage to LSP property, except as expressly provided herein. The LSP warrants that it has and will throughout the duration of the Agreement:

- a. Carry out the appropriate risk assessment with regard to its delivery of Services
- b. Provide the LSP's personnel with adequate information, instruction, training and supervision
- c. Have appropriate emergency procedures (including medical and evacuation insurance) in place to enable their provision of the Services so as to prevent damage to the LSP's personnel's health, safety, security of life and property and general wellbeing.
- d. The LSP shall provide training on a continuing basis for all personnel, in compliance with the security policy and security plan and its personnel acknowledges the risks associated with working in that environment.

Section 31. Protection of Personal Data:

The LSP shall comply with Chemonics' EU data protection policy (found in the following link <https://chemonics.com/chemonics-eu-data-protection-policy/> and Applicable Laws when processing personal data relating to any individual in connection with this Agreement.

The LSP shall permit Chemonics, the Client and their representatives to inspect and audit the LSP's data processing activities and comply with all reasonable requests by Chemonics to enable Chemonics and the Client to verify and/or procure that the LSP is in full compliance with its obligations under this Agreement.

Section 32. Miscellaneous

- a. No statement, representation, warranty, covenant, or agreement of any kind not expressly set forth in this Agreement issued hereunder shall affect, or be used to interpret, change, or restrict the express terms and provisions of this Agreement. Each of the parties hereto agrees to cooperate with the other parties hereto in effectuating this Agreement and to execute and deliver such further documents or instruments and to take such further actions as shall be reasonably requested in connection therewith.
- b. All statements, representations, warranties, covenants, and agreements in this Agreement shall be binding on the parties hereto and shall inure to the benefit of the respective successors and permitted assigns of each Party hereto. Nothing in this Agreement shall be construed to create any rights or obligations except among the parties hereto, and no person or entity shall be regarded as a third-party beneficiary of this Agreement.
- c. In the event that any court of competent jurisdiction shall determine that any provision, or any portion thereof, contained in this Agreement shall be unenforceable or invalid in any respect, then such provision shall be deemed limited to the extent that such court deems it valid or enforceable, and as so limited shall remain in full force and effect. In the event that such court shall deem any such provision partially or wholly unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.
- d. The headings and captions contained in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement or of any of its terms or provisions.
- e. Unless otherwise specifically agreed in writing to the contrary: (i) the failure of any party at any time to require performance by the other of any provision of this Agreement shall not affect such party's right thereafter to enforce the same; (ii) no waiver by any party of any default by any other shall be valid unless in writing and acknowledged by an authorized representative of the non-defaulting party, and no such waiver shall be taken or held to be a waiver by such party of any other preceding or subsequent default; and (iii) no extension of time granted by any party for the performance of any obligation or act by any other party shall be deemed to be an extension of time for the performance of any other obligation or act hereunder.

Section 33. Inconsistency Between English Version and Translation of Contract

In the event of inconsistency between any terms of this Agreement and any translation into another language, the English meaning shall control.