

GLOBAL FUND SUB-RECIPIENT AGREEMENT

HOW TO USE THIS AGREEMENT

- This Agreement template is used when UNDP acts as (i) an Implementing Partner under a Project; and (ii) a Principal Recipient under a Grant Agreement with The Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund”), and decides to disburse Project funds to a civil society organization (“CSO”) as a Responsible Party and a Global Fund Sub-recipient to carry out activities funded by the Grant Agreement.
- Pursuant to Financial Rule 117.03, UNDP must ensure that in directly implementing the Project it applies the policies and procedures governing the use of resources by UNDP under Chapter F of its Financial Regulations and Rules.
- Please review this Agreement and make sure to complete all the blocks in the face sheet with the correct information. This instruction page, as well as all footnotes, headers and footers, and any other instructions in this template, are only for the Country Office’s guidance and should be deleted before the Agreement is sent to the CSO for review. You must also attach the Project Document as Annex 1, the Grant Agreement as Annex 2, the Work Plan as Annex 3, and any special terms and conditions as Annex 4 to this Agreement.
- Any substantive changes to the provisions in this template Agreement must be cleared with the UNDP Legal Support Office, Bureau of Management, UNDP.
- Please have two originals of this Agreement signed. After signature, UNDP keeps one original and provides the CSO with the other original.

**SUB-RECIPIENT AGREEMENT BETWEEN THE UNITED NATIONS DEVELOPMENT
PROGRAMME AND *[insert name of CSO]*
FOR A PROJECT FUNDED BY
THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA**

1. Host Country:	
2. Project Name:	
3. Project Number:	4. Global Fund Grant Agreement Number, Signature Date and Starting Date:
5. SR Activities Starting Date:	6. SR Activities Ending Date:
7. SR Funds: <i>[insert amount]</i> 7a. First Installment: <i>[insert amount or indicate “not applicable”]</i>	
8. Sub-recipient’s Name: Address:	
9. Sub-recipient Contact Person’s Name: Title: Address: Telephone number: Fax: Email:	
10. UNDP Contact Person’s Name: Title: Address: Telephone number: Fax: Email:	
11. Sub-recipient Bank Account to which SR Funds will be transferred: Beneficiary: Account name: Account number: Bank name: Bank address: Bank SWIFT Code: Bank Code: Routing instructions for disbursements:	

This Agreement includes this face sheet, the Standard Terms and Conditions, and the documents listed below as Annexes, which shall take precedence over one another in case of conflict in the following order:

Annex 1: Project Document

Annex 2: Global Fund Grant Agreement

Annex 3: Work Plan, incorporating the description of SR activities, deliverables and performance targets, time frames and budget

Annex 4: Special Terms and Conditions [*delete if not applicable*]

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have on behalf of the Parties hereto signed this Agreement at the place and on the day set forth below.

For the Sub-recipient:

Signature: _____

Name: _____

Title: _____

Place: _____

Date: _____

For UNDP:

Signature: _____

Name: _____

Title: _____

Place: _____

Date: _____

STANDARD TERMS AND CONDITIONS

Whereas:

(i) The United Nations Development Programme (“UNDP”) has been selected as an Implementing Partner of the project in the Host Country indicated in Block 1 of the face sheet of this Agreement, with the name and number indicated in Block 2 and Block 3 of the face sheet of this Agreement (the “Project”). The Project is described in the project document attached as Annex 1 to this Agreement (the “Project Document”);

(ii) UNDP has entered into a Grant Agreement with The Global Fund to Fight AIDS, Tuberculosis, and Malaria (the “Global Fund”), with the number and date indicated in Block 4 of the face sheet of this Agreement and attached as Annex 2 to this Agreement (the “Grant Agreement”), to implement the Project in the Host Country as a Principal Recipient;

(iii) In accordance with the Grant Agreement, UNDP as a Principal Recipient may provide funding to other entities to carry out activities contemplated under the Project as Sub-recipients;

(iv) The Sub-recipient indicated in Block 8 of the face sheet of this Agreement is an **[insert full name of the CSO]** established in **[insert name of state/country, as applicable]** **[if applicable insert: and incorporated under the laws of [insert state/country where the CSO is incorporated]]**, with the mandate to **[insert brief description of mandate]**;

(v) UNDP and the Sub-recipient have, on the basis of their respective mandates, a common aim in the furtherance of sustainable human development; and

(vi) UNDP and the Sub-recipient agree that activities contemplated herein shall be carried out without discrimination, direct or indirect, because of race, ethnicity, religion or creed, status of nationality or political belief, gender, disability, or any other circumstances.

Now, therefore, on the basis of mutual trust and in the spirit of friendly cooperation, UNDP and the Sub-recipient (together referred to as the “Parties” or, individually, a “Party”) have entered into this Agreement.

Article I. Definitions

For the purpose of this Agreement, the following definitions shall apply:

(a) “Agreement” means this Agreement, including the face sheet, the Standard Terms and Conditions, and all annexes indicated on the face sheet, as well as any other documents agreed upon between the Parties to be an integral part of this Agreement. The provisions of the face sheet and the Standard Terms and Conditions shall take precedence over any annex or document;

(b) “CCM” means the Country Coordinating Mechanism of the Host Country, which includes representatives of the Government of the Host Country, civil society, multilateral institutions and people living with, or affected by AIDS, tuberculosis and malaria, and which coordinates the submission of proposals to the Global Fund and oversees the implementation of activities financed by the Global Fund;

(c) “Force majeure” means an act of nature, invasion or other acts of a similar kind or force which were unforeseen under the prevailing situation in the Host Country upon signature of this Agreement;

(d) “Global Fund” means The Global Fund to Fight AIDS, Tuberculosis and Malaria, a foundation established under the laws of Switzerland;

(e) “Grant Agreement” is defined in Recital (ii) above;

(f) “Income” means the interest on the SR Funds and all revenue derived from the purchase, use or sale of SR Resources procured with the SR Funds, or from the revenues generated from SR Activities, including, but not limited to, social marketing activities;

(g) “LFA” means an entity that acts as a local fund agent for the Global Fund in the Host Country;

(h) “Parties” (or, individually, a “Party”) means UNDP and/or the Sub-recipient;

- (i) “Project” means the activities implemented by UNDP under the Project Document and the Grant Agreement;
- (j) “Project Document” means a document that describes the Project activities implemented by UNDP and is attached as Annex 1 to this Agreement;
- (k) “Sub-recipient ” or “SR” means an entity indicated in Block 8 of the face sheet of this Agreement, as described in recital (iv) above;
- (l) “Sub-sub-recipient” is defined in Article XXVI, paragraph 1;
- (m) “SR Activities” means the activities to be carried out by the Sub-recipient and described in the Work Plan in support of the Project;
- (n) “SR Activities Starting Date” and “SR Activities Ending Date” are defined in Article III, paragraph 1;
- (o) “SR Bank Account” is defined in Article VIII, paragraph 3;
- (p) “SR Funds” means the funds disbursed by UNDP to the Sub-recipient under this Agreement, or expended by UNDP as direct payment for SR Resources, the maximum amount of which is indicated in Block 7 of the face sheet of this Agreement. See also Article VIII(1), below;
- (q) “SR Personnel” is defined in Article V, paragraph 1;
- (r) “SR Records” is defined in Article X, paragraph 1;
- (s) “SR Resources” is defined in Article VII, paragraph 1;
- (t) “UNDP” means the United Nations Development Programme, a subsidiary organ of the United Nations established by the General Assembly of the United Nations;
- (u) “Work Plan” means a description of SR Activities to be completed and deliverables and performance targets to be achieved for by the Sub-recipient, with corresponding time frames and budget deemed necessary to accomplish the objectives of the Project, and attached as Annex 3 to this Agreement.

Article II. Objective and Scope

1. The Sub-recipient shall carry out SR Activities and achieve the deliverables and performance targets set forth in the Work Plan with due diligence and efficiency, and in accordance with this Agreement.
2. The Parties agree to join efforts and to maintain a close working relationship in order to achieve the overall goals of the Project.

Article III. Duration of this Agreement

1. This Agreement shall commence on the date indicated in Block 5 of the face sheet of this Agreement (the “SR Activities Starting Date”) and shall expire on the date indicated in Block 6 of the face sheet of this Agreement (the “SR Activities Ending Date”). The provisions of this Agreement that are necessary to permit an orderly settlement of accounts between the Parties shall survive the SR Activities Ending Date or termination of this Agreement pursuant to Article XVI, below.
2. The Sub-recipient shall not expend any SR Funds after completion of SR Activities, the SR Activities Ending Date or a notice of suspension or termination pursuant to Article XVI, below, without agreement in writing from UNDP. In the event that the Sub-recipient expends funds in connection with SR Activities without such written agreement from UNDP, it shall do so at its own expense.

Article IV. General Responsibilities of the Parties; Contacts

1. The Parties agree to implement their respective responsibilities in accordance with the terms and conditions of this Agreement, and to carry out SR Activities in accordance with applicable UNDP policies and procedures.

2. The Parties shall communicate regularly with respect to SR Activities and shall consult as circumstances arise that may affect the successful completion of SR Activities or the achievement of deliverables and performance targets set forth in the Work Plan, with a view to reviewing the Work Plan.
3. All notices and other communications in regards to this Agreement shall be sent to the contact persons indicated in Block 9 (for the Sub-recipient) and Block 10 (for UNDP) of the face sheet of this Agreement.
4. The UNDP Contact Person indicated in Block 10 of the face sheet of this Agreement shall act as the principal channel for communication with the CCM regarding SR Activities, unless otherwise agreed in writing between the Parties.
5. The Parties shall provide each other mutual assistance in obtaining any licenses and/or permits required by domestic laws, where appropriate and necessary for the completion of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan. The Parties shall also collaborate in the preparation of any reports, statements or disclosures that are requested by the Global Fund or required under domestic laws.
6. The Sub-recipient shall ensure that it complies with all relevant domestic and international laws, including, but not limited to, labor and taxation laws.
7. The Parties shall cooperate in any public relations or publicity exercises, when UNDP deems these appropriate or useful.
8. The Sub-recipient shall not use the name and emblem of the United Nations or UNDP, or the trademark or name of the Global Fund, unless it receives prior written consent of the UNDP Contact Person indicated in Block 10 of the face sheet of this Agreement.

Article V. SR Personnel

1. The Sub-recipient shall be fully responsible and liable for all services, including SR Activities, performed by its employees, agents, contractors, consultants or Sub-sub-recipients (“SR Personnel”).
2. The Parties agree and acknowledge that:
 - (a) SR Personnel are not and shall not be considered in any respect as being the employees or agents of UNDP; and
 - (b) UNDP does not have or accept any liability for claims arising out of SR Activities, or any claims for death, bodily injury, disability, and/or damage to property or other hazards that may be suffered by SR Personnel as a result of their services pertaining to SR Activities.
3. At all times during the term of this Agreement, the Sub-recipient shall maintain adequate medical and life insurance for SR Personnel, as well as insurance coverage for service-related illness, injury, disability or death.
4. The Sub-recipient shall ensure that SR Personnel meet the highest standards of qualification and technical and professional competence necessary for the completion of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan. The Sub-recipient shall further ensure that decisions on engagement of SR Personnel shall be free of discrimination on the basis of race, religion or creed, ethnicity or national origin, gender, disability, or other similar factors.

Article VI. Terms and Obligations of SR Personnel

The Sub-recipient agrees and shall ensure that SR Personnel performing SR Activities under this Agreement:

- (a) shall not seek nor accept instructions regarding SR Activities from any Government, including the Government of the Host Country, or other authority external to UNDP;
- (b) shall refrain from any conduct that would adversely reflect on the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations or the mandate of UNDP;

(c) shall not use information that is considered confidential without the prior written authorization of UNDP, as required by Article XXVIII, below; and

(d) shall comply with the provisions of, and not engage in any practices identified in, Article XXV below.

Article VII. SR Resources; Procurement

1. The Sub-recipient, in consultation with UNDP, will develop the specifications and/or terms of reference for the goods, including equipment, supplies and vehicles, and services indicated in the Work Plan (the “SR Resources”). After review and approval of such specifications and/or terms of reference, UNDP shall procure the SR Resources in accordance with UNDP regulations, rules and procedures,¹ and make all payments for the SR Resources directly with SR Funds to the selected contractor pursuant to a contract or contracts with the said contractor.

2. To the extent that the Sub-recipient has been authorized in the Work Plan directly to procure any SR Resources, the Sub-recipient shall ensure that the award of contracts and the placement of orders will accord to the principles of highest quality, economy and efficiency, and will be based on an assessment of competitive quotations, bids or proposals, unless UNDP agrees otherwise in writing. In undertaking any procurement of SR Resources, the Sub-recipient shall also ensure that it complies with the provisions of Article XXV of this Agreement. Where UNDP is required by the Work Plan to make direct payments to the selected contractor for the SR resources, such payments shall be made with SR Funds.

3. The SR Resources furnished or financed with SR Funds by UNDP under this Agreement shall remain the property of UNDP and shall be identified by the Sub-recipient as the property of UNDP, unless otherwise agreed in writing by UNDP.

4. UNDP shall use its best efforts to assist the Sub-recipient in clearing all SR Resources through customs at places of entry into the areas where SR Activities are to take place.

5. During the term of this Agreement, all SR Resources shall be used only for the purposes of carrying out SR Activities and in accordance with this Agreement. The Sub-recipient shall be responsible for their proper custody, maintenance and care. The Sub-recipient shall maintain complete and accurate records of all SR Resources and shall regularly verify the inventory thereof. The Sub-recipient shall provide UNDP a verified list of the inventory of SR Resources in such form as UNDP may request. The Sub-recipient shall purchase and maintain appropriate insurance for the SR Resources in the amounts agreed upon between the Parties and incorporated in the budget contained in the Work Plan.²

6. The SR Resources shall be returned to UNDP within one (1) month following completion of SR Activities, the SR Activities Ending Date or termination of this Agreement, whichever is earlier, unless otherwise agreed in writing by UNDP.

7. In the event that any of the SR Resources is damaged, stolen, lost or otherwise forfeited, the Sub-recipient shall provide UNDP with a comprehensive report, including a police report, where appropriate, and any other evidence giving full details of the events leading to such damage, loss or forfeiture, and shall reimburse UNDP for any value lost immediately upon request by UNDP.

8. All intellectual property rights deriving from SR Activities shall vest in UNDP.

Article VIII. Financial Arrangements

1. In accordance with the budget contained in the Work Plan, UNDP has allocated and may make available to the Sub-recipient, or may expend through direct payments, funds up to the maximum amount indicated in Block 7 of the face sheet of this Agreement (“SR Funds”).

¹ See notably “UNDP Operation Manual for Projects Financed by The Global Fund to Fight AIDS, Tuberculosis and Malaria,” and the “Management Implementation Toolkit: Working with Global Fund Sub-recipients.”

² The Country Office must ensure that insurance is agreed upon and that the insurance is actually obtained.

2. **[Option 1: Advance Disbursement of SR Funds; Delete this paragraph if not applicable]** Where required by the Work Plan, the first installment indicated in Block 7a of the face sheet of this Agreement will be advanced by UNDP to the Sub-recipient following signature of this Agreement, or paid directly to the Sub-recipient's contractors.³ The second and subsequent installments will be advanced by UNDP to the Sub-recipient on a quarterly basis, or paid directly to the Sub-recipient's contractors, subject to:

- a) prior disbursement of the relevant funds by the Global Fund to UNDP;
- b) delivery by the Sub-recipient to UNDP of the financial report and other documentation as indicated in Article XI, below;
- c) satisfaction of UNDP regarding the management and use of SR Funds and SR Resources;
- d) satisfaction of UNDP regarding the performance of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan within the timeframes indicated therein and in accordance with this Agreement;
- e) acceptance by UNDP of the Sub-recipient's request for disbursement; and
- f) where applicable, acceptance by UNDP of the Sub-recipient's request for direct payment, including appropriate supporting documentation.

2. **[Option 2: Cost Reimbursement; Delete this paragraph if not applicable]** UNDP shall reimburse the Sub-recipient the costs it incurred in carrying out SR Activities on a quarterly basis, or pay directly the Sub-recipient's contractors, subject to:

- a) prior disbursement of the relevant funds by the Global Fund to UNDP;
- b) delivery by the Sub-recipient to UNDP of the financial report and other documentation as indicated in Article XI, below;
- c) satisfaction of UNDP regarding the management and use of SR Resources and the funds expended in carrying out SR Activities;
- d) satisfaction of UNDP regarding the performance of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan within the timeframes indicated therein and in accordance with this Agreement;
- e) appropriate supporting documentation showing the actual costs incurred in carrying out SR Activities, including invoices, bills and receipts;
- f) acceptance by UNDP of the Sub-recipient's request for reimbursement; and
- g) where applicable, acceptance by UNDP of the Sub-recipient's request for direct payment, including appropriate supporting documentation.

2. **[Option 3: Direct Payment; Delete this paragraph if not applicable]** Where required by the Work Plan, UNDP shall make direct payments to cover the costs incurred in carrying out SR Activities, subject to:

- a) prior disbursement of the relevant funds by the Global Fund to UNDP;
- b) delivery by the Sub-recipient to UNDP of the financial report and other documentation as indicated in Article XI, below;

³ Please note that advance payments must comply with UNDP policies and procedures. The Comptroller has authorized advance payments to civil society organizations of up to four months of program expenditures without a bank guarantee if it is not possible to obtain one. Any advances above this amount must be cleared by the Comptroller. The Country Office is responsible for doing a financial capacity assessment of the Sub-recipient prior to issuing an advance payment. If the sub-recipient does not have the capacity to handle an advance payment, then it should not be issued. In some cases, weak financial capacity can be addressed through smaller advance payments, more frequent reporting periods, activity based disbursements, and/or direct payments.

- c) *satisfaction of UNDP regarding the management and use of SR Resources;*
- d) *satisfaction of UNDP regarding the performance of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan within the timeframes indicated therein and in accordance with this Agreement; and*
- e) *acceptance by UNDP of the Sub-recipient's request for direct payment, including appropriate supporting documentation.*

3. The Sub-recipient shall open and maintain a separate bank account indicated in Block 11 of the face sheet of this Agreement into which the SR Funds provided by UNDP may be disbursed (the "SR Bank Account"), unless otherwise agreed by UNDP in writing. All payments to the Sub-recipient shall be made by UNDP to the SR Bank Account.

4. The Sub-recipient acknowledges that the disbursement of SR Funds is subject to the disbursement of Project funds by the Global Fund to UNDP under the Grant Agreement and that the amount of SR Funds contemplated under this Agreement could be reduced or eliminated if such Project funds are not received from the Global Fund. The Sub-recipient also acknowledges that SR Activities that are the subject of this Agreement are part of the Project funded by the Global Fund under the Grant Agreement. As part of its responsibility to implement and oversee the Project, it may be necessary for UNDP, in consultation with the CCM and subject to the approval of the Global Fund, to modify SR Activities.

5. SR Funds and all Income shall be used solely for the purposes of SR Activities and in accordance with this Agreement. The Sub-recipient shall not commit or expend SR Funds in variance of more than ten (10) percent of any budget line item indicated in the Work Plan, unless approved in advance and in writing by UNDP. The Sub-recipient shall indicate any expected variations in its quarterly reports delivered to UNDP pursuant to Article XI, below. In any event, the Sub-recipient shall not commit or expend SR Funds in excess of the total amount indicated in Block 7 of the face sheet of this Agreement.

6. Unless otherwise agreed in writing by UNDP, the Sub-recipient shall return all unspent SR Funds (where applicable) and Income to UNDP within one (1) month of completion of SR Activities, the SR Activities Ending Date or termination of this Agreement, whichever is earlier.

7. UNDP shall not be liable for the payment of any expenses, fees, tolls or any other costs not indicated in the Work Plan, unless UNDP has agreed to such payment in writing prior to the expenditure by the Sub-recipient.

8. In the event that the Sub-recipient disburses or uses SR Funds in violation of the terms and conditions of this Agreement, notwithstanding the availability to, or exercise by UNDP of any other remedies under this Agreement, the Sub-recipient shall refund the SR Funds to UNDP not later than fifteen (15) days after the Sub-recipient receives a written request for a refund from UNDP.

9. The right to a refund provided for in paragraph 8 of this Article VIII shall continue, notwithstanding any other provision of this Agreement, for three (3) years from the date of the last disbursement under this Agreement. Prior approval of a disbursement by UNDP or the Global Fund does not limit UNDP's right to a refund in the event that the original disbursement to the Sub-recipient was contrary to the terms and conditions of this Agreement.

Article IX. Anti-Terrorism

The Sub-recipient agrees to undertake all reasonable efforts to ensure that none of the SR Funds and SR Resources is used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all contracts or agreements with Sub-sub-recipients entered into under this Agreement, as contemplated in Article XXVII below.

Article X. Maintenance of Books and Records

1. The Sub-recipient shall keep accurate and current books and records, and other documents (the “SR Records”) in respect of all expenditures incurred with SR Funds, reflecting that all such expenditures are in accordance with the Work Plan. The Sub-recipient shall maintain supporting documentation for each disbursement, including original invoices, bills, and receipts. The Sub-recipient shall promptly disclose to UNDP any Income arising from SR Activities, which shall be reflected in a revised Work Plan as accrued income.
2. Upon the SR Activities Ending Date or termination of this Agreement, or upon completion of SR Activities, whichever is earlier, the Sub-recipient shall maintain the SR Records for a period of at least seven (7) years, unless the Parties agree otherwise.

Article XI. Reporting Requirements

1. The Sub-recipient shall provide UNDP with periodic reports on the progress and completion of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan. At a minimum, the Sub-recipient agrees to provide the reports set forth in this Article XI.
2. The Sub-recipient shall provide UNDP with a report in the form and substance acceptable to UNDP within fifteen (15) days after the end of each of the periods indicated in paragraph 4 below (“Quarterly Report”). The Quarterly Reports shall reflect: (i) the financial activity during the quarter in question and cumulatively from the beginning of SR Activities until the end of the reporting period, and (ii) a description of progress toward completion of SR Activities and achievement of deliverables and performance targets set forth in the Work Plan. The Sub-recipient shall explain in the report any variation between the planned and actual performance of SR Activities and achievement of the deliverables and performance targets for the period in question indicated in the Work Plan.
3. The Sub-recipient shall include in the financial section of the Quarterly Reports: (i) a list of expenses incurred by the Sub-recipient in connection with SR Activities over the quarter in accordance with the categories indicated in the Work Plan; (ii) any Income accrued during the quarter in question and cumulatively from the beginning of SR Activities until the end of the reporting period; (iii) where applicable, reasons for the variance between the approved budget and actual expenses during the quarter, and (iv) a request for *disbursement/reimbursement* ***[delete not applicable]*** of SR Funds *[and (v) a reconciliation of the outstanding advances and foreign currency exchange loss or gain]* ***[Delete the bracketed text if SR Activities are financed through cost reimbursement]***
4. The Quarterly Reports shall cover the following time periods and shall be due on the following dates:

<u>Period Covered By Report</u>	<u>Report Due Date</u>
Jan. 1 - March 31	April 15
April 1 - June 30	July 15
July 1 - Sept. 30	Oct. 15
Oct. 1 - Dec. 31	Jan. 15
5. The Sub-recipient shall not accept refunds from suppliers of SR Resources procured by UNDP. The Sub-recipient shall report to UNDP any offer of such a refund. In the event that the Sub-recipient receives a refund for SR Resources that the Sub-recipient procured directly, it shall report such a refund in the financial section of the Quarterly Report as a reduction of disbursements in the category to which it relates.

6. In addition to the Quarterly Reports, the Sub-recipient shall provide to UNDP:
 - (a) on a quarterly basis, a copy of the monthly statements issued by the bank in which the SR Bank Account is held;
 - (b) upon request from UNDP, any supporting documents to the Quarterly Reports and SR Bank Account statements; and

(c) not later than 30 January of each year, an annual financial and programmatic report in the form and substance acceptable to UNDP, covering the preceding fiscal year.

7. Not later than two (2) months after the completion of SR Activities, the SR Activities Ending Date or the termination of this Agreement, whichever is earlier, the Sub-recipient shall provide to UNDP a final report on SR Activities and include a final financial report on the use of SR Funds, as well as an inventory of SR Resources.

8. The Sub-recipient also agrees to provide, compile and make available to UNDP any other record, document or information, verbal or written, which UNDP may reasonably request with respect to the SR Funds, SR Resources, and SR Activities more generally.

Article XII. Tax Exemptions

1. Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations' exemption from such taxes, duties or charges, the Sub-recipient shall immediately consult with UNDP to determine a mutually acceptable solution.

2. Accordingly, the Sub-recipient authorizes UNDP to deduct from the Sub-recipient's invoice any amount representing such taxes, duties or charges, unless the Sub-recipient has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically provided written authorization to the Sub-recipient to pay such taxes, duties or charges under protest. In that event, the Sub-recipient shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

Article XIII. Audit Requirements

1. UNDP shall arrange for an audit of the Sub-recipient's expenditure statements in accordance with UNDP audit procedures. The cost of the audit will be charged to the "audit" budget line.

2. Notwithstanding the above, each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of this Agreement and for a period of two (2) years following completion of SR Activities, the SR Activities Ending Date or prior termination of this Agreement, whichever is earlier. UNDP shall be entitled to a refund from the Sub-recipient for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of this Agreement.

3. The Sub-recipient acknowledges and agrees that, from time to time, UNDP may conduct investigations relating to any aspect of the Agreement or the award thereof, the obligations performed under this Agreement, and the operations of the Sub-recipient generally relating to performance of this Agreement. The right of UNDP to conduct an investigation and the Sub-recipient's obligation to comply with such an investigation shall not lapse upon completion of SR Activities, the SR Activities Ending Date or prior termination of this Agreement, whichever is earlier.

4. The Sub-recipient shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Sub-Recipient's obligation to make available SR Personnel and any relevant documentation, and to grant to UNDP access to the Sub-recipient's premises, for such purposes at reasonable times and on reasonable conditions. The Sub-recipient shall require its agents, including, but not limited to, the Sub-recipient's attorneys, accountants or other advisers, reasonably to cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

Article XIV. Responsibility for Claims

1. The Sub-recipient shall provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the Sub-recipient's responsibilities under this Agreement, or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Sub-recipient or SR Personnel.
2. The Sub-recipient shall indemnify, hold and save harmless, and defend at its own expense, UNDP, its officials and persons performing services for UNDP, from and against all suits, claims, demands and liability of any nature and kind, including their cost and expenses, arising out of the acts or omissions of the Sub-recipient or SR Personnel.
3. The Sub-recipient shall be responsible for, and deal with all claims brought against it by SR Personnel.

Article XV. Security

1. The responsibility for the safety and security of the Sub-recipient, SR Personnel and property, as well as for UNDP's property in the Sub-recipient's custody, rests with the Sub-recipient.
2. The Sub-recipient shall:
 - (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the Host Country; and
 - (b) assume all risks and liabilities related to the Sub-recipient's security, and the full implementation of the security plan.
3. UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this Agreement. Notwithstanding the foregoing, the Sub-recipient shall remain solely responsible for the security of SR Personnel and for UNDP's property in its custody as set forth in paragraph 1 of this Article XV.

Article XVI. Suspension and Early Termination

1. The Parties recognize that the successful completion of SR Activities and accomplishment of their purposes, as well as the achievement of deliverables and performance targets set forth in the Work Plan, are of paramount importance, and that UNDP therefore may find it necessary to terminate the Agreement, or to modify SR Activities, should circumstances arise that interfere or threaten to interfere with the aforementioned objectives.
2. UNDP shall consult with the Sub-recipient if, in the judgment of UNDP, any circumstances referred to in paragraph 1 of this Article XVI arise. The Sub-recipient shall promptly inform UNDP of any such circumstances that might come to its attention. The Parties shall cooperate towards the rectification or elimination of the circumstances in question and shall exert all reasonable efforts to that end, including prompt corrective steps by the Sub-recipient, where such circumstances are attributable to it or are within its responsibility or control. The Parties shall also cooperate in assessing the consequences of possible termination of the Agreement on the beneficiaries of SR Activities.
3. UNDP may at any time after occurrence of the circumstances in question, and after appropriate consultations, suspend the Agreement by written notice to the Sub-recipient, without prejudice to the initiation or continuation of any of the measures envisaged in paragraph 2 of this Article XVI. UNDP may indicate to the Sub-recipient the conditions under which it is prepared to authorize SR Activities by the Sub-recipient to resume.
4. If the cause of suspension is not rectified or eliminated within fourteen (14) days after UNDP has given notice of suspension to the Sub-recipient, UNDP may, by written notice at any time thereafter during the continuation of such cause terminate this Agreement and contract another entity as appropriate. The effective date of termination under the provisions of the present paragraph shall be specified by written notice from UNDP.
5. The Sub-recipient may terminate this Agreement in cases where a condition has arisen that impedes the Sub-recipient from successfully fulfilling its responsibilities under this Agreement, by providing UNDP with written notice of its intention to terminate this Agreement. Such notice must be provided by the Sub-recipient: (i)

at least thirty (30) days prior to the effective date of termination if the SR Activities Ending Date is within six (6) months; or (ii) at least sixty (60) days prior to the effective date of termination if the SR Activities Ending Date is more six (6) months after the effective date of termination.

6. The Sub-recipient may terminate this Agreement after consultations have been held between the Sub-recipient and UNDP, with a view to eliminating the impediment, and shall give due consideration to proposals made by UNDP in this respect.

7. Upon receipt of a notice of termination by either Party under this Article, the Parties shall take immediate steps to terminate SR Activities in a prompt and orderly manner, so as to minimize losses and further expenditures. The Sub-recipient shall undertake no forward commitments and shall return to UNDP, within one (1) month, all unspent SR Funds (where applicable) and Income, all SR Resources, and any other property provided by UNDP, unless UNDP agrees otherwise in writing.

8. In the event of termination by either Party under this Article, UNDP shall reimburse the Sub-recipient only for the costs incurred to perform SR Activities in conformity with the terms and conditions of this Agreement. Reimbursements to the Sub-recipient under the present paragraph, when added to the amounts previously remitted to it by UNDP in respect of SR Activities, shall not exceed the total amount of SR Funds.

9. In the event of transfer of the responsibilities of the Sub-recipient for SR Activities to another entity, the Sub-recipient shall cooperate with UNDP and the said other entity in the orderly transfer of such responsibilities.

Article XVII. Additionality

The Sub-recipient recognizes that the Global Fund awarded the Project Funds on the condition that the Project Funds are in addition to the normal and expected resources that the Host Country normally receives or budgets from external or domestic sources. In the event such other resources are reduced to an extent that it appears that the Project Funds are being used to substitute for other resources, UNDP may terminate this Agreement upon request from the Global Fund.

Article XVIII. Force Majeure

1. In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, as defined in Article I, paragraph (c), above, the Party affected by the *force majeure* shall give the other Party notice and full particulars in writing of such occurrence if the affected Party is thereby rendered unable, in whole or in part, to perform its obligations or meet its responsibilities under this Agreement. The Parties shall consult on the appropriate action to be taken, which may include suspension of this Agreement by UNDP, in accordance with Article XVI, paragraph 3, above, or termination of the Agreement, with either Party giving to the other at least seven (7) days written notice of such termination.

2. In the event that this Agreement is terminated due to causes constituting *force majeure*, the provisions of Article XVI, paragraphs 8 and 9, above, shall apply.

Article XIX. Dispute Settlement

The Parties shall endeavor to settle amicably through direct negotiations any dispute, controversy or claim arising out of or relating to this Agreement, including breach and termination thereof. If these negotiations are unsuccessful, the matter shall be referred to arbitration in accordance with United Nations Commission on International Trade Law (“UNCITRAL”) Arbitration Rules then obtaining. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding on the Parties.

Article XX. Privileges and Immunities

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations and UNDP.

Article XXI. Child Labor

1. The Sub-recipient represents and warrants that neither it, nor SR Personnel are engaged in any practice

inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, *inter alia*, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

2. Any breach of this representation and warranty shall entitle UNDP to terminate this Agreement immediately upon notice to the Sub-recipient, without any liability for termination charges, or any other liability of any kind of UNDP.

Article XXII. Mines

1. The Sub-recipient represents and warrants that neither it nor SR Personnel are actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

2. Any breach of this representation and warranty shall entitle UNDP to terminate this Agreement immediately upon notice to the Sub-recipient, without any liability for termination charges or any other liability of any kind of UNDP.

Article XXIII. Closure of SR Activities and/or the Project

The Sub-recipient agrees to cooperate with UNDP in providing to the Global Fund upon request all the information and documents required under the grant closure policies and procedures of the Global Fund. This information may include, but is not limited to:

- (a) a description and budget for activities needed to be carried out in order to close the SR Activities in an orderly and responsible manner;
- (b) a list of all health products procured with SR Funds by the Sub-recipient that are not likely to be consumed before the SR Activities Ending Date and a plan for the use, transfer and/or disposal of such items;
- (c) a list of all SR Resources procured by the Sub-recipient using SR Funds; and
- (d) an estimated cash statement as of the SR Activities Ending Date. Such cash statement shall include all interest, foreign exchange gains, tax refunds and revenue from any social marketing activities earned from SR Activities and SR Funds.

Article XXIV. Conflicts of Interest; Anti-Corruption

1. The Parties agree that it is important that all necessary precautions are taken to avoid conflicts of interest and corrupt practices. To this end, the Sub-recipient shall maintain standards of conflict that govern the performance of SR Personnel, including the prohibition of conflicts of interest and corrupt practices in connection with the award and administration of contracts, grants, or other benefits.

2. The Sub-recipient and persons affiliated with the Sub-recipient, including SR Personnel, shall not engage in the following practices:

- (a) participating in the selection, award, or administration of a contract, grant or other benefit or transaction funded by the SR Funds, in which the person, members of the person's immediate family or his or her business partners, or organizations controlled by or substantially involving such person, has or have a financial interest;

- (b) participating in such transactions involving organizations or entities with which or whom that person is negotiating or has any arrangement concerning prospective employment;
- (c) offering, giving, soliciting or receiving gratuities, favors, gifts or anything else of value to influence the action of any person involvement in a procurement process or contract execution;
- (d) misrepresenting or omitting facts in order to influence the procurement process or the execution of a contract;
- (e) engaging in a scheme or arrangement between two or more bidders, with or without the knowledge of the Sub-recipient, designed to establish bid prices at artificial, non-competitive levels; or
- (f) participating in any other practice that is or could be construed as an illegal or corrupt practice under domestic law.

3. If the Sub-recipient has knowledge or becomes aware of any of the practices outlined in paragraph 2 of this Article XXV undertaken by anyone affiliated with the Sub-Recipient, the CCM, the LFA or the Global Fund, the Sub-recipient shall immediately disclose the existence of such practices to UNDP.

Article XXV. Sub-sub-recipients

1. From time to time, the Sub-recipient may, under this Agreement, provide SR Funds to other entities, or make direct payments to third parties on behalf of other entities, to carry out SR Activities (“Sub-sub-recipients”), provided that the Sub-Recipient:

- (a) assesses the capacity of each Sub-sub-recipient to carry out SR Activities that are being assigned to it and selects each Sub-sub-recipient based on the positive results of such an assessment in a transparent and documented manner;
- (b) obtains prior written approval and clearance of UNDP for each selected Sub-sub-recipient;
- (c) enters into an agreement with each approved Sub-sub-recipient subject to, and conforming with the provisions of this Agreement; and
- (d) maintains and complies with a system to monitor the performance of Sub-sub-recipients and assure regular reporting from them in accordance with this Agreement.

2. The Sub-recipient acknowledges and agrees that UNDP’s approval and clearance pursuant to paragraph 1(b) of this Article XXVI, providing SR Funds to Sub-sub-recipients, or making payments on behalf of Sub-sub-recipients to carry out SR Activities does not relieve the Sub-recipient of its obligations and liabilities under this Agreement. The Sub-recipient is responsible for the acts and omissions of Sub-sub-recipients in relation to the Project as if they were the acts and omissions of the Sub-recipient.

Article XXVI. Amendments

This Agreement and/or its Annexes may be modified or amended only by written agreement between the Parties.

Article XXVII. Confidentiality

The Sub-recipient may not communicate at any time to any other person, Government or authority external to UNDP any information known to it by reason of its association with UNDP which has not been made public, except by prior written authorization of UNDP; nor shall the Sub-recipient at any time use such information to private advantage. These obligations do not lapse upon completion of SR Activities, the SR Ending Date or termination of this Agreement.

Article XXVIII. Additional Provisions

1. The Sub-recipient shall ensure that all insurance policies required to be purchased under this Agreement (except workers’ compensation insurance) shall:
- (a) name UNDP as an additional insured party;

(b) include a waiver of subrogation of the Sub-recipient's rights to the insurance carrier against UNDP; and

(c) provide that UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

2. The Sub-recipient shall, upon request, provide UNDP with satisfactory evidence of the insurance required under this Article XXIX.

3. The Sub-recipient understands that UNDP is responsible for monitoring and evaluating SR Activities and the Project as a whole. The Sub-recipient agrees to cooperate with UNDP in such monitoring and evaluation and to perform every obligation set forth in a monitoring and evaluation plan to be agreed to by the Parties.

4. The Sub-recipient further understands that UNDP may conduct an independent evaluation of the Project, which may include SR Activities and which will focus on results, transparency, and substantive accountability. The Sub-recipient agrees to cooperate fully in the execution of such evaluation.

5. The Sub-recipient shall allow authorized representatives of UNDP, the Global Fund, and/or their designated agents, to visit its sites on an ad hoc basis, at the time and place designated by these entities. The purpose of such ad hoc site visits is to allow UNDP, the Global Fund, and/or their designated agents to oversee SR Activities, including the verification of data contained in reports on SR Activities, as well as to determine whether value for money has been obtained.

6. The Sub-recipient shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office, or on file with UNDP against any monies due or to become due for any work done or materials furnished under this Agreement, or by reason of any other claim or demand against the Sub-recipient.

7. The Sub-recipient agrees to notify UNDP immediately upon receipt of any donor funds targeted towards any similar purposes and objectives as SR Activities and to provide UNDP all details thereof.

8. This Agreement is subject to the special terms and conditions specified in Annex 4. ~~delete if not applicable~~