

**Bidding Documents and Signed Contract for Public-Private Partnership for the
Lease, Management and Operation of the Pharmacy of
Northern Samar Provincial Hospital**

Provincial Government of Northern Samar

**PROVINCIAL GOVERNMENT OF
NORTHERN SAMAR**

Bidding Documents

For the

Public-Private Partnership

For the

**Lease, Management and Operation
of the Pharmacy of
Northern Samar Provincial Hospital**

Bidding for Public –Private Partnership

Checklist of Prequalification Documents & Revenue Share Evaluation of Bidders

First Envelope (Prequalification , Track Record & Financial Capability Evaluation)

1) Prequalification requirement:

- Company Profile stating the owners, brief history and business of the company
- Company directors and key officers with resume
- Certificate of Registration from SEC, DTI, CDA whichever is appropriate in Philippine Law
- Mayor permit/s(License to operate pharmacy) issued by the city or municipality where the bidder place of business are located
- Statement of the Bidder of all its ongoing and completed government and private contract within the last 3 years
- Audited financial statements, stamped 'received by the BIR for the last three(3) taxable years
- If joint Venture, A Valid Joint Venture Agreement
- If not, a duly notarized statement from all the potential joint venture partners stating that they will enter into and abide by the provision of JVA
- Board resolution authorizing a representative of the company to participate in the bid and to enter into a contract
- Bank reference
- Bid Security
- Omnibus Sworn Statement

2) Track Record & Financial Capability evaluation

A) Track record

- Number of years in operation
- Number of pharmacies operated
- Annual sales

B) Financial Capability

- Capital
- Debt to equity ratio
- Current ratio
- Favorable references from reputable banks

Second Envelope (Revenue share evaluation)

- Proposal Submission Form
- Price proposal

Post qualification Requirement:

- Tax Clearance per Executive Order 398, series of 2005
- Latest Income Tax & Business Tax Returns

Notice of Award Requirement:

- Joint Venture agreement, If Joint Venture, within Ten (10) days from receipt by the bidder of the notice from the PPP-SC that the bidder has the HRRB
- Performance Security in accordance with ITB Clause 27
- Signing of Contract as provided in ITB Clause 26
- Approval by higher Authority, if required

Start of Contract:

- 30 days after receipt of Notice to Proceed



.Republic of the Philippines
PROVINCE OF NORTHERN SAMAR
Catarman

PUBLIC –PRIVATE PARTNERSHIP SELECTION COMMITTEE

Invitation to Bid

NS-05-11-12

***Public-Private Partnership (PPP) for the Lease, Management and Operation
of the Pharmacy of Northern Samar Provincial Hospital***

1. The Provincial Government of Northern Samar (PGNS) is currently working with the Development Bank of the Philippines (DBP) and Asian Development Bank (ADB) under the Credit for Better Health Care Project (CBHCP) to strengthen the governance structure of the health sector of the province to improve the overall health status of its constituents, particularly in the areas of maternal and child health, control of communicable diseases, basic health care, hospital referral and laboratory and diagnostic services, through various forms of Private Public Partnerships (PPP). One of the areas identified for PPP is the management and operation of the hospital pharmacies and drug rooms in Northern Samar.
2. At present, there are nine (9) hospitals managed and operated by the provincial government in Northern Samar, with a total authorized capacity of three hundred seventy (370) beds. These are the Northern Samar Provincial Hospital in Catarman, with 120 beds; the district hospitals in Allen and GB Tan, with 50 beds each; and the district hospitals in Biri, Capul, Catubig, Gamay, San Antonio and San Vicente, with 25 beds each. The pharmacies and drug rooms in all these hospitals are currently being managed and operated by PGNS through their respective hospital management. PGNS would like to improve the services in the Hospital Pharmacies by inviting third party entities qualified and capable of bringing their expertise in the area of pharmacy administration and operations.
3. This Invitation to Bid (ITB) is for the PPP for the lease, operation and management of the pharmacy of the Northern Samar Provincial Hospital ("the Hospital Pharmacy").
4. The PGNS now calls for the submission of eligibility documents and bids for the PPP for the lease, operation and management of the Hospital Pharmacy. Eligibility screening shall cover the firm's qualifications to perform the services as evidenced by business registration documents, permits, experience in similar contracts, financial statements and other documents specified in the Terms of Reference (TOR).
5. The bidding documents shall be available for sale in the amount of *Twelve Thousand Pesos only (12,000.00)* at the Office of the PPP-SC Secretariat in the Provincial Capitol of Northern Samar from 8:00 am to 5:00 pm of May 11, 2012 to June 07, 2012
6. A bid security in the amount of Two Hundred Forty thousand pesos (PhP 240,000.00) in the form of cash, cashier/manager's check, bank draft/guaranty, or irrevocable letter of credit issued by a commercial bank shall be posted by the bidder.

7. PGNS will hold a Pre-Bid Conference on *May 24, 2012 10:00AM* at Governor's Conference room 2nd floor left wing, New Capitol Building which shall be open to all interested parties who have purchased the bidding documents.
8. Interested firms must submit their eligibility documents and bids on or before *June 07, 2012 10:00 AM* at BAC Office 2nd floor New Capitol Building, during which bids shall also be opened. Late bids shall not be accepted.
9. This PPP activity will be conducted through open competitive procedures as provided by the Northern Samar PPP Code. Republic Act No. 9184, otherwise known as the Government Procurement Reform Act shall apply in a suppletory manner.
10. Contract duration shall be three (3) years.
11. The PGNS reserves the right to reject any and all bids, annul the bidding process, or not award the contract at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.
12. For further information, please refer to:

*Atty. Eduardo D. Dela Cruz
PPP-SC Chairman
Provincial Administrator Office
Tel No. 055-251-8175
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May 11, 2012

Atty. Eduardo D. Dela Cruz
PPC-SC Chairman

Section II. Instructions to Bidders

A. General

1. Introduction

- 1.1. The Provincial Government of Northern Samar (PGNS) shall select an individual, sole proprietorship, partnership, corporation, or a joint venture (JV) (hereinafter referred to as "Bidder") from among those who passed the eligibility screening and bid evaluation, in accordance with the eligibility requirements and bid evaluation procedure specified in **ITB Clause 22**.
- 1.2. PGNS intends to improve the services in the pharmacy of Northern Samar Provincial Hospital (hereinafter referred to as "Hospital Pharmacy") by inviting qualified bidders for the lease, operation and management of the Hospital Pharmacy.
- 1.3. Bidders are invited to submit bids required for this Project described in **Section III, Terms of Reference**.
- 1.4. Bidders must familiarize themselves with local conditions and take them into account in preparing their bids. To obtain firsthand information on the project and on the local conditions, Bidders are encouraged to visit the PGNS before submitting a bid and to attend the pre-bid conference specified in **ITB Clause 7**.
- 1.5. The Bidders' costs of preparing their bids, including a visit to the PGNS, are not reimbursable as a direct cost of the project.
- 1.6. Bidders shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, or coercive practices in accordance with **ITB Clause 3.1**.

2. Conflict of Interest

- 2.1 The PGNS requires that the Bidders hold the PGNS' interests paramount, without any consideration for future work, and strictly avoid situations where a conflict of interest shall arise with their other projects or their own interests. Bidders shall not have conflict with their prior or current obligations to its own or other entities, or that may place them in a position of not being able to carry out the Project in the best interest of the PGNS.
- 2.2 Bidders shall not be related to the Head of the PGNS, members of the PPP-SC, PPP-RA, the TWG, the PPP-SC and PPP-RA Secretariat, the head of the Implementing Department and the project consultants, by consanguinity or affinity up to the third civil degree. The prohibition shall apply as follows:
 - (a) If Bidder is an individual or sole proprietorship, then to himself;
 - (b) If the Bidder is a partnership, then to all its officers and members;

- (c) If the Bidder is a corporation, then to all its officers, directors and controlling stockholders; or
- (d) If the Bidder is a JV, the provisions of items (a), (b), or (c) of this Section shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.

Relationship of the nature described above or a failure to comply with the provisions of this clause will result in the rejection of the Bidder's bid.

- 2.2. Subject to the provisions of **ITB Clause 2**, any previous or ongoing participation by the Bidder, its professional staff, or its affiliates or associates under a contract in relation to this Project may result in the rejection of its bid. Bidders should clarify their situation in that respect with the PGNS before preparing its bid.
- 2.3. Failure by a Bidder to fully disclose potential conflict of interest at the time of bid submission, or at a later date in the event that the potential conflict arises after such date, shall result in the PGNS seeking the imposition of the maximum administrative, civil and criminal penalties up to and including imprisonment.

3. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 3.1. The PGNS as well as the Bidders shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the PGNS:
 - (a) defines, for purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the GOP, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the PGNS, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive

levels and to deprive the PGNS of the benefits of free and open competition.

- (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the PGNS, designed to establish bid prices at artificial, non-competitive levels.
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
 - (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.
- 3.2. Further, the PGNS will seek to impose the maximum civil, administrative, and/or criminal penalties available under applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in **ITB Clause 3.1(a)**.
- 3.3. Furthermore, the PGNS reserves the right to inspect and audit the records and accounts of a Bidder in relation to the bidding and for the resultant contract, either by themselves or through independent auditors.

4. Bidder's Responsibilities

- 4.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in **Section IV. Bidding Forms**.
- 4.2. The Bidder is responsible for the following:
- (a) Having taken steps to carefully examine all of the Bidding Documents;
 - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
 - (c) Having made an inspection of the facilities available and needed for this Project, if any;
 - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under **ITB Clause 8.3**.
 - (e) Ensuring that it is not "blacklisted" or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose

blacklisting rules have been recognized by the Government Procurement Policy Board (GPPB);

- (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- (g) Authorizing the Head of the PGNS or its duly authorized representative/s to verify all the documents submitted;
- (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
- (i) Complying with the disclosure provision under Section 47 of the Act in relation to other provisions of Republic Act 3019; and
- (j) Complying with existing labor laws and standards, if applicable.

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

- 4.3. It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to this Project, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; (c) nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work.
- 4.4. The PGNS shall not assume any responsibility regarding erroneous interpretations or conclusions by the Bidder out of the data furnished by the PGNS.
- 4.5. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the GOP which may affect the contract in any way.
- 4.6. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the PGNS will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

- 4.7. Bidders should note that the PGNS will only accept bids from those that have paid the nonrefundable fee for the bidding documents at the office indicated in the Invitation to Bid.

5. Origin of Associated Goods

There is no restriction on the origin of the Goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

6. Subcontracts

- 6.1. The Bidder may subcontract portions of the services to an extent as may be approved by the PGNS. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 6.2. Subcontractors must comply with the eligibility criteria and the documentary requirements specified in **ITB Clause 10**. In the event that any subcontractor is found by the PGNS to be ineligible, the subcontracting of such portion of the services shall be disallowed.
- 6.3. At the time of bid submission, the Bidder shall identify the subcontractor to whom a portion of the services will be subcontracted. The Bidder shall include the required documents of the sub-contractor as part of its bid.

B. Contents of Bidding Documents

7. Pre-Bid Conference

- 7.1. A pre-bid conference shall be held on **May 24, 2012 10:00 AM at Governor's Conference Room, 2nd floor left wing, New Capitol Building** to clarify and address the Bidders' questions on the technical and financial aspects of the Project.
- 7.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the PGNS's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the bidding documents discussed during the pre-bid conference.
- 7.3. Any statement made at the pre-bid conference shall not modify the terms of the bidding documents unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.

8. Clarifications and Amendments to Bidding Documents

- 8.1. Bidders who have purchased the bidding documents may request for clarifications on any part of the documents for an interpretation. Such a request must be in writing and submitted to the PGNS through the Chairman of the PPP-SC at the BAC Office 2nd floor New Capitol Building at least ten (10) calendar days before the deadline set for the submission and receipt of bids.
- 8.2. Supplemental/Bid Bulletins may be issued upon the PGNS's initiative for purposes of clarifying or modifying any provision of the bidding documents not later than seven (7) calendar days before the deadline for the submission and receipt of bids. Any modification to the bidding documents shall be identified as an amendment.
- 8.3. Any Supplemental/Bid Bulletin issued by the PPP-SC shall also be posted on and the website of the PGNS. It shall be the responsibility of all Bidders who secure the bidding documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the PPP-SC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with **ITB Clause 19**.

C. Preparation of Bids

9. Language of Bids

The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the PGNS, shall be written in English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation in English certified by the appropriate embassy or consulate in the Philippines, in which case the English translation shall govern, for purposes of interpretation of the bid.

10. Documents Comprising the Bid: Prequalification Documents and Price Proposal

- 10.1. All information provided in the Bidder's bid shall be treated as confidential. The bid must be submitted in hard copy using the format shown in **Section IV Bidding Forms**.
- 10.2. The bid requires completion of Four (4) forms, namely: Prequalification Documents Submission Form, Price Proposal Submission Form, Price Proposal and the Omnibus Sworn Statement.
- 10.3. The following prequalification document shall be submitted by the Bidder:
 - (a) Company profile stating the owner's, brief history and business of the company;
 - (b) Company directors and Key Officers with resume;

- (c) Registration certificate from Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI), or Cooperative Development Authority (CDA) , whichever is appropriate under Philippine Laws;
- (d) Mayor's permit/s (license to operate pharmacy) issued by the city/ies or municipality/ies where the Bidder's place/s of business is located;
- (e) Statement of the Bidder of all its ongoing and completed government and private contracts within the last three (3) years, including contracts awarded but not yet started, if any, similar in nature and complexity to the contract to be bid. The statement shall include for each contract, the following:
 - (e.1) the name and location of the contract;
 - (e.2) date of award of the contract;
 - (e.3) type and brief description of contract;
 - (e.4) Bidder's role (whether main consultant, subcontractor, or partner in a JV)
 - (e.5) amount of contract;
 - (e.6) contract duration; and
 - (e.7) certificate of satisfactory completion issued by the client, in the case of a completed contract;
- (f) The Bidder's audited financial statements, stamped "received" by the Bureau of Internal Revenue (BIR) for the Last three(3) taxable years;
- (g) Valid joint venture agreement (JVA), in case a joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the event that the bid becomes successful. Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security. Each partner of the joint venture shall submit only the documents corresponding to the registration with SEC, DTI or CDA, and the mayor's permit for its place of business. The submission of the rest of the documents by any of the joint venture partners constitutes compliance;
- (h) Board resolution authorizing a representative of the company to participate in the bid and to enter into contract; and
- (i) Bank references

- 10.4 The winning bidder shall be responsible for payment of all applicable taxes, including compliance with the National Tax Code of the Philippines.

11. Alternative Bids

Bidders shall submit only one bid and shall not associate with any other entity other than those already provided in its eligibility documents and allowed by the PGNS.

12. Bid Currencies

- 12.1. All bid prices shall be quoted in Philippine Pesos.

- 12.2. Payment of the contract price shall be made in Philippine Pesos.

13. Bid Validity

- 13.1. Bids shall remain valid for one hundred twenty (120) calendar days from the date of the opening of bids.
- 13.2. In exceptional circumstances, prior to the expiration of the bid validity period, the PGNS may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in **ITB Clause 14** should also be extended corresponding to, at least, the extension of the bid validity period. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

14. Bid Security

- 14.1. The bid security, issued in favor of the PGNS, shall be in the amount of Two hundred Forty thousand pesos (PhP 240,000.00) in the form of cash, cashier's/manager's check, bank draft/guaranty, or irrevocable letter of credit issued by a commercial bank. The bid security should be valid for one hundred twenty (120) calendar days. Any bid not accompanied by an acceptable bid security shall be rejected by the PGNS as non-responsive.
- 14.2. No bid securities shall be returned to the Bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated and Responsive Bid has signed the contract and furnished the performance security, but in no case later than the expiration of the bid security validity period indicated in **ITB Clause 14.1**.

14.3. Upon signing and execution of the contract pursuant to **ITB Clause 26**, and the posting of the performance security pursuant to **ITB Clause 27**, the Bidder's bid security will be discharged, but in no case later than the bid security validity period as indicated in **ITB Clause 14.1**.

14.4. The bid security may be forfeited:

(a) if a Bidder:

- (i) withdraws its bid during the period of bid validity specified in **ITB Clause 14.1**;
- (ii) Does not accept the correction of arithmetical errors , if there are any
- (iii) fails to submit the requirements within the prescribed period or a finding against their veracity as stated in **ITB Clause 23.2**;
- (iv) submits eligibility requirements containing false information;
- (v) conceals information in the bid in order to influence the outcome of eligibility screening or any other stage of the bidding process;
- (vi) allows the use of one's name, or uses the name of another for purposes of the bidding;
- (vii) refuses to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
- (viii) attempts to unduly influence the outcome of the bidding in his favor;
- (ix) fails to enter into the joint venture after the bid is declared as successful, in the case of a joint venture;
- (x) Performs acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.

(b) if the successful Bidder:

- (i) fails to sign the contract in accordance with **ITB Clause 26**;
- (ii) fails to furnish the performance security in accordance with **ITB Clause 27**

15. Format and Signing of Bids

- 15.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in **Section IV. Bidding Forms** on or before the deadline specified in the **ITB Clause 17** in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the prequalification documents and the second shall contain the price proposal.
- 15.2. Forms as mentioned in **ITB Clause 15.1** must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 15.3. The Bidder shall prepare an original of the first and second envelopes as described in **ITB Clause 16.2**. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 15.4. The bid shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder.
- 15.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

16. Sealing and Marking of Bids

- 16.1. Bidders shall enclose their original eligibility documents described in **ITB Clause 10.3**, in one sealed envelope marked "ORIGINAL – ELIGIBILITY DOCUMENTS", and the original of their price proposal in another sealed envelope marked "ORIGINAL - PRICE PROPOSAL", sealing them all in an outer envelope marked "ORIGINAL BID".
- 16.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. 1- ELIGIBILITY DOCUMENTS" and "COPY NO. 1 PRICE PROPOSAL" and the outer envelope as "COPY NO.1", respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 16.3. The original and the number of copies of the bid shall be typed or written in indelible ink and shall be signed by the bidder or its duly authorized representative/s.
- 16.4. All envelopes shall:
 - (a) contain the name of the contract to be bid in capital letters;
 - (b) bear the name and address of the Bidder in capital letters;

- (c) be addressed to the PGNS's PPP-SC identified in **ITB Clause 8.1**;
 - (d) Bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB Clause 17**.
- 16.5. If bids are not sealed and marked as required, the PGNS will assume no responsibility for the misplacement or premature opening of the bid.

D. Submission of Bids

17. Deadline for Submission of Bids

Bids must be received by the PGNS's PPP-SC on or before **June 07, 2012 10:00AM**.

18. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the PGNS, pursuant to **ITB Clause 17**, shall be declared "Late" and shall not be accepted.

19. Modification and Withdrawal of Bids

- 19.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the PGNS prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as "PREQUALIFICATION MODIFICATION" or "PRICE MODIFICATION" and stamped "received" by the PPP-SC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.
- 19.2. A Bidder may, through a letter of withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the letter of withdrawal is received by the PGNS prior to the deadline prescribed for submission and receipt of bids.
- 19.3. Bids requested to be withdrawn in accordance with **ITB Clause 19.1** shall be returned unopened to the Bidders. A Bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the PPP-SC before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 19.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to **ITB Clause 14.4**, and the imposition of

administrative, civil, and criminal sanctions as prescribed by R.A. 9184 and its IRR.

E. Evaluation and Comparison of Bids

20. Process to be Confidential

- 20.1. Members of the PPP-SC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any Bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in **ITB Clause 21**.
- 20.2. Any effort by a bidder to influence the PGNS in its decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

21. Clarification of Bids

To assist in the evaluation, comparison and post-qualification of the bids, the PGNS may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the PGNS shall not be considered.

22. Opening and Evaluation of Bids

- 22.1. The PPP-SC shall conduct a detailed evaluation of bids using a 2-step procedure comprised of prequalification and revenue share evaluation. The first step, prequalification, covers track record and financial capability evaluation. The second step, revenue share evaluation, is solely based on the highest rate offered by the prequalified bidder. The criteria and weights for prequalification are as follows:

No.	Criteria		Weight
1	Track Record		60%
	(a) Number of years in operation	20%	
	Less than 3 year	10%	
	3-5 years	15%	
	More than 5 years	20%	
	(b) Number of pharmacies operated	20%	
	Less than 3 pharmacies	10%	
	3-5 pharmacies	15%	
	More than 5 pharmacies	20%	
	(c) Annual sales	20%	
	Up to PhP 10 million	10%	

No.	Criteria		Weight
	PhP 10 – PhP 20 million	15%	
	More than PhP 20 million	20%	
	Minimum requirement = 40%		
2	Financial capability		40%
	(a) Capital	25%	
	Less than PhP 5 million	10%	
	PhP 5 million – PhP 12 million	15%	
	More than PhP 12 million	25%	
	(b) Debt-to-equity ratio	5%	
	More than 1.0x	3%	
	0.5 to 1.0x	4%	
	Less than 0.5x	5%	
	(c) Current ratio	5%	
	Less than 0.5:1	3%	
	0.5:1 to 1.0:1.0	4%	
	More than 1.0:1.0	5%	
	(d) Favorable references from reputable banks	5%	
	None	0%	
	Adequate (at least 1)	5%	
	Minimum requirement = 25%		
Total minimum requirement = 65%			

22.2. The PPP-SC shall only open the price proposals of Bidders that meet the total minimum required score of sixty-five percent (65%). The prequalified bidder that submits the highest revenue share, expressed in percentage of net sales derived from the hospital pharmacy, shall be considered for award, subject to post-qualification.

22.3. In case the revenue shares offered by the prequalified bidders are the same, award shall be in favor of the Bidder with the highest prequalification score.

23. Post Qualification

23.1. The PPP-SC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Highest Rated Bid (HRB) complies with and

is responsive to all the requirements and conditions specified in the eligibility requirements.

- 23.2. Within a non-extendible period of three (3) calendar days from receipt by the Bidder of the notice from the PPP-SC that it is the HRB, the Bidder shall submit the following documentary requirements:

- (a) Tax clearance per Executive Order 398, Series of 2005;
- (b) Latest income and business tax returns;

Failure of the Bidder declared as HRB to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

- 23.3. The post-qualification shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB Clauses 10**, as well as other information as the PGNS deems necessary and appropriate.
- 23.4. If the PPP-SC determines that the Bidder with the HRB passes all the criteria for post-qualification, it shall declare the said bid as the Bidder with the Highest Rated and Responsive Bid (HRRB), and recommend to the Head of the PGNS the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower, subject to **ITB Clause 25.3**.
- 23.5. A negative determination shall result in the rejection of the Bidder's bid, in which event the PPP-SC shall proceed to the next HRB to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next HRB, and so on until the HRRB is determined for contract award.
- 23.6. Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the PPP-SC, the Head of the PGNS shall approve or disapprove the said recommendation.

24. Reservation Clause

- 24.1. Notwithstanding the prequalification or post-qualification of a Bidder, the PGNS reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake this Project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid

evaluation criteria, the PGNS shall consider the said Bidder as disqualified from submitting a bid or from obtaining an award or contract.

24.2. Based on the following grounds, the PGNS reserves the right to reject any and all bids, declare a failure of bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:

- (a) if there is prima facie evidence of collusion between appropriate public officers or employees of the PGNS, or between the PPP-SC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- (b) if the PGNS's PPP-SC is found to have failed in following the prescribed bidding procedures; or
- (c) for any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the Head of the PGNS;
 - (ii) If the project is no longer necessary as determined by the Head of the PGNS; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.

24.3. In addition, the PGNS may likewise declare a failure of bidding when:

- (a) No bids are received;
- (b) All prospective bidders are declared predisqualified;
- (c) All bids fail to comply with all the bid requirements or fail post-qualification; or
- (d) The bidder with the HRRB refuses, without justifiable cause to accept the award of contract, and no award is made.

F. Award of Contract

25. Contract Award

- 25.1. Subject to **ITB Clause 23**, the PGNS shall award the contract to the Bidder whose bid has been determined to be the HRRB.
- 25.2. Prior to the expiration of the period of bid validity, the PGNS shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the HRRB and submitted personally or sent by registered mail or electronically to the PGNS.
- 25.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
 - (a) Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the notice from the PPP-SC that the Bidder has the HRRB;
 - (b) Posting of the performance security in accordance with **ITB Clause 27**;
 - (c) Signing of the contract as provided in **ITB Clause 26**; and
 - (d) Approval by higher authority, if required.

26. Signing of the Contract

- 26.1. At the same time as the PGNS notifies the successful Bidder that its bid has been accepted, the PGNS shall send the Contract Form to the Bidder, which contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 26.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security and sign and date the contract and return it to the PGNS.
- 26.3. The PGNS shall enter into contract with the successful Bidder within the same ten (10) calendar days period provided that all the documentary requirements are complied with.
- 26.4. The following documents shall form part of the contract:
 - (a) Contract Agreement;
 - (b) Bidding Documents;
 - (c) Winning bidder's bid, including the Prequalification Documents and Price Proposals, and all other documents/statements submitted;
 - (d) Performance Security;
 - (e) Notice of Award of Contract;

- (f) Notice to Proceed; and
- (g) Other contract documents that may be required by existing laws.

27. Performance Security

- 27.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the PGNS and in no case later than the signing of the contract.
- 27.2. The performance security shall be denominated in Philippine Pesos and posted in favor of the PGNS in the amount of Three million (PhP 3,000,000.00) in the form of cash, cashier's/manager's check, bank draft/guaranty, or irrevocable letter of credit issued by a commercial bank.
- 27.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the PGNS shall initiate and complete the post qualification of the second HRB. The procedure shall be repeated until the HRRB is identified and selected for contract award. However if no Bidder passed post-qualification, the PPP-SC shall declare the bidding a failure and conduct a re-bidding with re-advertisement.

28. Notice to Proceed and Contract Commencement

- 28.1. Within three (3) calendar days from the date of approval of the contract, the PGNS shall issue its Notice to Proceed to the Pharmacy Manager.
- 28.2. The contract shall commence Thirty (30) calendar days after the date of the Pharmacy Manager's receipt of the Notice to Proceed and such date will be regarded as the effective date of the contract.

Section III. Terms of Reference

**PPP OF THE LEASE, MANAGEMENT AND OPERATION OF THE PHARMACY OF
NORTHERN SAMAR PROVINCIAL HOSPITAL**

TERMS OF REFERENCE

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**PPP OF THE LEASE, MANAGEMENT AND OPERATION OF THE PHARMACY OF
NORTHERN SAMAR PROVINCIAL HOSPITAL**

TERMS OF REFERENCE

1. Background/Rationale

- 1.1 The Provincial Government Northern Samar ("PGNS") operates and manages nine hospitals, namely: (i) the Northern Samar Provincial Hospital ("NSPH") located in Catarman; (ii) the Allen District Hospital located in Allen; (iii) the Biri District Hospital located in Biri; (iv) the Capul District Hospital located in Capul; (v) the Catubig District Hospital located in Catubig; (vi) the Gamay District Hospital located in Gamay; (vii) the GB Tan District Hospital located in Laoang; (viii) the San Antonio District Hospital located in San Antonio; and (ix) the San Vicente District Hospital located in San Vicente (collectively, "The Northern Samar Hospitals").
- 1.2 This TOR is for PPP of the lease, management and operation of the pharmacy of the Northern Samar Provincial Hospital ("the Hospital Pharmacy"). PGNS intends to engage in similar PPPs for the lease, management and operation of the pharmacies of the remaining Northern Samar Hospitals.
- 1.3 To improve the market conditions under which the Northern Samar Hospitals operate, in 2010, the Province of Northern Samar spent P13.6 million as premium payments to Philippine Health Insurance Corporation ("PHIC") as part of its province-wide implementation of universal coverage for its constituents. PGNS also continues to work closely with PHIC to improve the reimbursement period for PHIC-covered transactions.
- 1.4 PGNS would like to improve pharmacy processes and operating standards by bringing in quality and experienced expertise in pharmacy operations, particularly in the areas of inventory management, clinical pharmacy, quality management, and marketing.
- 1.5 Hence, PGNS is issuing this Terms of Reference (TOR) to invite interested and qualified private sector entities with proven track record, financial

capacity and operating capability to submit their proposal to lease, manage and operate the Hospital Pharmacy such that it is able to ensure the availability of competitively priced and quality Pharmaceutical Products and services.

2. Parties Involved

- 2.1 The soliciting party is the PGNS, acting on behalf of the NSPH.
- 2.2 The parties invited to make and submit their proposals are qualified private sector entities, whether stock or non-stock and non-profit corporations ("Pharmacy Management Companies"). Upon selection and engagement as hospital pharmacy service provider for NSPH, the winning Pharmacy Management Company shall be referred to as "Pharmacy Manager" during the term of its agreement with PGNS. For prequalification purposes, the Pharmacy Management Companies shall submit the following documents to the PGNS together with their bid:
 - a) Company profile, stating the owners, brief history, and business of the company and such other information (including licenses to operate pharmacies for other locations) as the Pharmacy Management Company deems necessary or desirable to include to enable PGNS to properly evaluate its capabilities;
 - b) Audited financial statements for the last 3 years, which shall include at least the following: income statement, balance sheet, and cashflow statement as submitted to the relevant government regulatory authorities (i.e., Securities and Exchange Commission and Bureau of Internal Revenue);
 - c) List of clients and description of relevant services (i.e., pharmacy management-related), including duration of engagement, rendered to each client;
 - d) List of company directors and key officers, including a brief resume of each one;
 - e) Board resolution appointing a representative and authorizing the Pharmacy Management Company to submit a bid and enter into a contract with PGNS based on this TOR;
 - f) Bank references;
 - g) Statement under oath by an authorized officer that: (i) the documents and information submitted to PGNS pursuant to this TOR are authentic (or their genuine reproductions) and truthful; (ii) in the event that either of the contracting parties secure a loan from the Development Bank of the Philippines under the Credit for Better Health Care Project (CBHCP) (Loan 2125-PHI) for purposes of this TOR, that the procurement guidelines of the Asian Development Bank ("ADB") shall apply; and (iii) disclose any potential conflict of interest.

3. Scope of Services

The Pharmacy Manager shall be responsible for providing the following services:

3.1 General Operations

- a) At its expense, lease, manage and operate the Hospital Pharmacy and assume full responsibility for its management and operations, including, but not limited to, recruitment, training and employment of pharmacy personnel;
- b) Make available on twenty-four hours and seven days a week basis all the Pharmaceutical Products and Non-pharmaceutical Products, including intravenous fluids, listed in the Northern Samar Therapeutic List ("NSTL") and included by the Therapeutics Committee of the NSPH where applicable, attached hereto as Annexes 1 and 2. Since the NSTL is periodically updated, the Pharmacy Manager is expected to be responsive to the updated requirements.
- c) Secure and maintain all appropriate licenses and permits for the Hospital Pharmacy and its pharmacy personnel;
- d) Prepare Pharmaceutical Products for inpatient and outpatient dispensing, in accordance with pertinent laws, rules and regulations, and PHIC accreditation guidelines at all times, and advise and coordinate with the management of NSPH on such matters;
- e) Pay rent to PGNS. Rent shall be P300.00 per square meter plus a percentage of Net Sales derived by the Pharmacy Manager from the Hospital Pharmacy, and paid monthly;
- f) Pay all taxes related to the operation of the Hospital Pharmacy.

3.2 Inventory

- a) Purchase and maintain for its account sufficient inventories of Pharmaceutical Products and Non-pharmaceutical Products listed in the NSTL for the Hospital Pharmacy;
- b) Prepare monthly reports for submission to PGNS on the composition and size of inventories in accordance with the NSTL and historical consumption patterns of NSPH;

- c) Provide as promptly as possible additional Pharmaceutical Products and Non-pharmaceutical Products necessary due to any or a combination of the following:
 - i. emergency situations resulting from an unusually large number of inpatients/outpatients;
 - ii. sudden increase in demand by retail customers;
 - iii. unforeseen or unavoidable circumstances; or
 - iv. any other cases of extreme urgency requiring immediate purchase

3.3 Pricing/Billing

- a) Sell or dispense Pharmaceutical Products and Non-Pharmaceutical Products listed in Annexes 1 and 2 at locally competitive prices consistent with pertinent laws (the "Selling Price") which shall be posted conspicuously within the Hospital Pharmacy premises.
- b) Prepare and issue the charge slips (for inpatients) or sales invoices (for outpatients) and issue the corresponding receipts for cash sales.
- c) Implement a pharmacy management and cash receipting system as well as a point of sale monitoring system for the Hospital Pharmacy that reflects the Selling Price and is compatible with the NSPH and PHIC accounting systems.

4. Other Responsibilities of the Pharmacy Manager

In addition to the responsibilities set forth above, the Pharmacy Manager shall:

- 4.1 Manage, audit, and implement procedures that will help in capturing information on Inpatient and Outpatient sales and utilization on a daily basis;
- 4.2 Be responsible for the selection, hiring, training and employment of qualified pharmacy staff in such number and with such qualifications, compensation and benefits as may be appropriate. The Pharmacy Manager shall give first priority and preference in hiring NSPH staff that may be affected and to qualified local residents;

- 4.3 Submit monthly reports to the NSPH with such information and in such format as may be required by the latter's policies and procedures, and such other reports as may be reasonably required by the NSPH from time to time;
- 4.4 Keep, maintain and allow the NSPH or its representatives to inspect at reasonable hours records of operations of the Hospital Pharmacy;
- 4.5 Coordinate with the appropriate committees and departments of the NSPH to ensure adherence to quality assurance and thus improve patient outcome;
- 4.6 Be responsible for the cleanliness, upkeep and physical maintenance of the Hospital Pharmacy, including proper disposal of expired inventory;
- 4.7 Abide by, and cause the Hospital Pharmacy personnel to comply with, any and all laws, rules and regulations, policies and guidelines that may be adopted from time to time by the management of the NSPH;
- 4.8 Report adverse drug reactions to the Therapeutics Committee of the NSPH;
- 4.9 Pay for the cost of the use of utilities for the operation of the Hospital Pharmacy such as water, electricity, and communications;
- 4.10 Secure and maintain comprehensive insurance for the inventory and leased premises of the Pharmacy;
- 4.11 Secure a performance bond from a financial institution acceptable to NSPH in an amount equivalent to P3,000,000.00.

5. Responsibilities of the PGNS through the NSPH

PGNS, acting through the NSPH shall:

- 5.1 Pay for the Pharmaceutical Products and Non-pharmaceutical Products dispensed to indigents or other deserving cases not covered by PHIC, as endorsed by the PGNS, subject to limits to be set by PGNS;
- 5.2 Pursue province-wide PHIC coverage for its constituents for the duration of this contract;

- 5.3 Actively ensure proper and immediate processing by PHIC of reimbursement claims and promptly remit the same to the Pharmacy Manager upon receipt;
- 5.4 Provide, from time to time, training of the Pharmacy Manager's staff on the regulations, policies and service standards of the NSPH;
- 5.5 Allow a representative of the Pharmacy Manager to participate in relevant meetings of the NSPH committees and departments, including the Therapeutics Committee, to ensure that the Hospital Pharmacy is attuned to the needs and aligned to the initiatives of these units;
- 5.6 Inform the Pharmacy Manager regarding the PHIC and other third party payors' or insurance companies' status of patients, their drug payment allowance, and receipt of drug reimbursements;
- 5.7 Provide the Pharmacy Manager to the existing Hospital Pharmacy which has an area of 25 square meters;
- 5.8 Assist the Pharmacy Manager in securing permits for utilities;
- 5.9 Monitor prescribing patterns of doctors employed by NSPH to ensure: (i) they prescribe only Pharmaceutical Products listed in the NSTL; (ii) only those included by the Therapeutics Committee of the NSPH; and (iii) only those available at the Hospital Pharmacy
- 5.10 Orient NSPH staff on the Pharmacy Manager's operating systems, regulations, policies and processes especially those that interrelate with pharmacy operations and those affecting or regulating drug dispensing procedures;
- 5.11 Provide the Pharmacy Manager with the NSTL and the respective Therapeutic List (Annexes 1 and 2) of the NSPH;
- 5.12 Grant exclusive rights to sell Pharmaceutical Products and Non-Pharmaceutical Products listed in the NSTL within the NSPH to the Pharmacy Manager.

6. **Duration of Contract**

The contract period shall be for three (3) years from the opening date of the Hospital Pharmacy (the "Initial Term"), subject to pre-termination for just causes. The contract

period may be renewed for such period as the PGNS and the Pharmacy Manager may subsequently agree in writing.

7. Other Terms and Conditions

- 7.1 The PPP for the lease, management and operation of the Hospital Pharmacy shall be the sole discretion of PGNS and as such, during the solicitation of proposals, PGNS has the sole option to make reasonable changes in this Terms of Reference. PGNS also has the prerogative to reject or refuse proposals by any or all parties without need of explanation.
- 7.2 However, upon successful tender and the selection of the Pharmacy Manager, the engagement shall be protected by the terms and conditions of the definitive agreements consistent with this TOR.
- 7.3 In the preparation of proposals and the definitive agreements, several terms and definitions pertaining to the operation and management of a pharmacy shall be used. For the avoidance of conflict and to expedite the negotiations, the Definition of Terms are shown in the attached Annex "3".
- 7.4 During the term of the contract, the Pharmacy Manager shall coordinate with the hospital management of the NSPH, through the chief pharmacist of the hospital or the provincial pharmacist, as may be applicable. The chief pharmacist or the provincial pharmacist shall be an appointed and employed officer of the PGNS.

8. Submission of Proposals and Basis for Selection

- 8.1 The invitation/solicitation of proposals, their evaluation, and the eventual selection of the Pharmacy Manager are administered by the:

PROVINCIAL BIDS AND AWARDS COMMITTEE (also known as the "Bids and Awards Committee")

Address: _____

Phone Number: _____

All queries pertaining to this tender, and the eventual submission of proposals (and its evaluation) shall be addressed to, and handled by, the Bid and Awards Committee.

The specific activities of this tender and the timelines for their implementation are listed in the attached Annex 4.

8.2 The criteria for selecting the Pharmacy Manager shall be based on the following:

- a. Track Record (which shall be assigned a weight of 60% in the evaluation; such factors as number of years in operation, number of pharmacies operated, annual sales, etc. shall be considered);
- b. Financial Capability (which shall be assigned a weight of 40% in the evaluation; such factors as the amount of capital being committed, debt/equity ratio, liquidity ratio, references from reputable banks, etc. shall be considered);
- c. Proposed Rent (to be indicated consistent with Section 3.1.e.).

Only Pharmacy Management Companies who qualify under Sections 8.2.a and 8.2.b above, and accomplish a "Price Proposal" shall have their bids containing their Proposed Rent considered. The bidder with the highest Proposed Rent shall be declared as the Pharmacy Manager.

..... End of Terms of Reference [Main Section].....

Northern Samar Provincial Hospital
HOSPITAL PHARMACY MANAGEMENT
TERMS OF REFERENCE

Annex 1 - Pharmaceutical Products Listed in the Northern Samar Therapeutic List ("NSTL") and Included by the Therapeutics Committee of the NSPH

I. PNDF DRUGS	
A.	ANTI-INFECTIVES
1	Amikacin 250 mg vial
2	Amoxicillin 100mg/ml susp
3	Amoxicillin 125mg/ml susp
4	Amoxicillin 250mg/5ml suspension
5	Amoxicillin 500 cap.
6	Ampicillin 250mg susp
7	Ampicillin 500 mg vial
8	Ampicillin 1gm vial
9	Ampicillin 500mg vial
10	Ampicillin + Sulbactam 750 mg vial
11	Benzyl Penicillin G 1 MU vial
12	Benzyl Penicillin G 5 MU vial
13	Cefalexin 100mg/ml drops
14	Cefalexin 250mg suspension
15	Cefalexin 500mg cap.
16	Cefazolin 1gm vial
17	Cefoxitin 1g/vial
18	Ceftazidime 1g vial
19	Ceftriaxone 1 gm vial
20	Cefuroxime 750mg vial
21	Cefuroxime 250mg tab
22	Cefuroxime 500mg tab
23	Chloramphenicol 125mg/5ml susp
24	Chloramphenicol 1gm vial

25	Chloramphenicol 250mg cap
26	Chloramphenicol 500 cap.
27	Ciprofloxacin 200 mg/100 ml IV infusion
28	Ciprofloxacin 500mg tab
29	Clarithromycin 500 mg tab
30	Clindamycin 300mg cap
31	Clindamycin 150 mg cap
32	Clindamycin 150mg/2 ml amp.
33	Cloxacillin 125 mg/5ml susp
34	Cloxacillin 250mg cap
35	Cloxacillin 500mg cap
36	Co-Amoxiclav 312.5mg/5ml susp
37	Co-Amoxiclav 625mg tab
38	Cotrimoxazole 200mg/40mg suspension
39	Cotrimoxazole 400mg/80mg suspension
40	Cotrimoxazole 400mg/80mg tab.
41	Cotrimoxazole 800mg/160mg tab.
42	Erythromycin 200mg/5ml susp
43	Erythromycin 500 mg cap
44	Gentamicin 40 mg/ml x 2ml amp
45	Levofloxacin 500 mg tab
46	Levofloxacin 500 mg vial
47	Mebendazole 500mg tab
48	Meropenem 500mg/vial
49	Meropenem 1g/vial
50	Metronidazole 125mg/5ml susp
51	Metronidazole 500mg tab
52	Metronidazole 5 mg/ml x 100 ml vial
53	Norfloxacin 400mg tab
54	Ofloxacin 200 mg tab
55	Ofloxacin 400 mg tab
56	Oxacillin 500mg amp
57	Tazobactam + piperacillin 4.5 g/ vial
58	Vancomycin 500 mg vial
B.	CARDIOVASCULAR
59	Adenosine 3 mg/ml x 2ml, vial

60	Amiodarone 200mg tab.
61	Amiodarone 50mg/ml
62	Amlodipine 5mg tab.
63	Aspirin 80mg tab
64	Aspirin 325 mg tab
65	Atropine Sulfate 1mg/ml amp
66	Captopril 25mg tab
67	Clonidine 75mg tab.
68	Clonidine 150mcg/ml amp
69	Clopidogrel 75mg tab.
70	Digoxin 0.25mg amp.
71	Digoxin 0.25mg tab.
72	Diltiazem 30 mg tab
73	Dobutamine 12.5mg/ml x 20 ml vial
74	Dopamine 40mg/ml x 5 ml, vial or ampule
75	Enoxaparin 4000 iu
76	Epinephrine 1mg/ml ampule
77	Esmolol 10 mg/ml vial
78	Felodipine 5mg tab.
79	Furosemide 10mg/2ml amp
80	Heparin 1000 IU/ml vial
81	Heparin 5000 IU/ml vial
82	Hydralazine 20mg/ml amp
83	Isosorbide 5-Mononitrate 60mg tab
84	Isosorbide Dinitrate 1mg/ml x 10 ml amp.
85	Isosorbide Dinitrate 5mg Sublingual tab
86	Losartan 50 mg tab
87	Losartan 100 mg tab
88	Methyldopa 250mg tab.
89	Metoprolol 100mg tab.
90	Metoprolol 50mg tab.
91	Nicardipine 1 mg/ml x 10 ml amp
92	Nicardipine HCl 10mg tab
93	Nifedipine 10mg cap.
94	Nifedipine 5mg cap.
95	Nitroglycerine 5 mg patch
96	Nitroglycerine 10 mg patch
97	Norepinephrine 1 mg/ml x 2 ml, amp

98	Propranolol 40 mg tab
99	Verapamil 2.5mg/ml x 2 ml, ampule
100	Verapamil 40mg tab
101	Verapamil 2.5mg/ml x 2 ml, ampule
	C. GASTROINTESTINAL
102	Aluminum Hydroxide + Magnesium Hydroxide 60 ml, suspension
103	Atropine Sulfate 500mcg/ml amp
104	Bisacodyl 5 mg tab
105	Bisacodyl 10 mg rectal suppository
106	Dicycloverine 10mg/5ml syrup
107	Hyoscine N-Butylbromide 10mg tab
108	Hyoscine N-Butylbromide 20mg amp
109	Metoclopramide 10mg tab
110	Metoclopramide 5mg/5ml syrup
111	Metoclopramide 5mg/ml x 2 ml ampule
112	Omeprazole 40mg cap
113	Omeprazole 40mg amp
114	Ranitidine 150mg tab
115	Ranitidine 25mg/ml x 2 ml amp.
	D. RESPIRATORY
116	Aminophylline 25mg/ml x 10 ml, amp
117	Budesonide nebule 250 mcg/ml
118	Budesonide nebule 500 mcg/ml
119	Dextromethorphan 5 mg/5 ml x 60ml syrup
120	Hydrocortisone 100mg vial
121	Hydrocortisone 250mg vial
122	Methylprednisolone 4 mg tab
123	Salbutamol nebule
124	Salbutamol 2mg/5ml syrup
125	Salbutamol 2mg tab
126	Terbutaline 500 mcg/ml, amp

E.	CNS DRUGS
127	Chlorpromazine 100 mg tablet
128	Chlorpromazine 200mg tablet
129	Chlorpromazine 25 mg/ml amp
130	Dexamethasone 500mcg tab
131	Dexamethasone Sodium Phosphate 4mg/ml x 2 ml vial
132	Diclofenac Na 25mg/ml x 2 ml
133	Diclofenac Na 75mg cap/tab
134	Escitalopram 10mg tablet
135	Fluoxetine 20mg capsule
136	Haloperidol 2mg tablet
137	Haloperidol 5mg tablet
138	Haloperidol 5mg/ml ampule
139	Haloperidol 50 mg/ml ampule
140	Ibuprofen 200mg tab
141	Ibuprofen 400mg tab
142	Ketorolac 30mg/ml ampule
143	Levopromazine 25 mg tablet
144	Levopromazine 100mg tablet
145	Magnesium Sulfate 250 mg/ml x 10 ml amp
146	Mannitol 20%, 500ml bottle
147	Olanzapine 5mg tablet
148	Olanzapine 10mg tablet
149	Paracetamol 125mg syrup
150	Paracetamol 250mg syrup
151	Paracetamol 500mg tab.
152	Paracetamol 125 mg suppository
153	Phenytoin 30mg/5ml susp
154	Phenytoin Na 100 mg cap
155	Phenytoin Na 50mg/ml x 2ml amp
156	Risperidone 2mg tablet
157	Risperidone 2mg orodispersible tablet
158	Risperidone 4mg tablet
159	Sertraline 50mg tablet

160	Tramadol 50 mg/ml x 1 ml, amp
161	Tramadol 50 mg/ml x 2 ml, amp
162	Tramadol 50mg tab
163	Tramadol 100mg cap
	F. ANESTHESIA AND REGULATED DRUGS
164	Alprazolam 250 mcg tablet
165	Alprazolam 500 mcg tablet
166	Atracurium Besylate 10 mg/ml x 5 ml, amp
167	Bupivacaine 0.5% heavy, ampule (<i>Sensorcaine</i>)
168	Bupivacaine 0.5% isobaric, amp
169	Clonazepam 2mg tablet
170	Diazepam 5 mg tab
171	Diazepam 5 mg/ml, 2 ml amp
172	Ephedrine Sulfate 50 mg/ml x 1 ml, amp
173	Fentanyl Citrate 20 ml amp
174	Isoflurane 250ml bottle
175	Ketamine 50mg/ml x 10 ml vial
176	2% Lidocaine + Epinephrine x 1.8 ml, carpule
177	Lidocaine 2% x 50ml, vial
178	Lidocaine 2% x 5ml, ampule
179	Lidocaine jelly 2% x 30g
180	Lidocaine 10% x 50 ml, spray
181	Midazolam 5mg/ml x 1 ml, ampule/ vial
182	Midazolam 5mg/ml x 3ml, ampule/ vial
183	Morphine 10mg/ml amp
184	Morphine 30mg tab
185	Nalbuphine HCl 10 mg/ml x1 ml, amp
186	Neostigmine 500 mcg/ml x 1 ml, amp
187	Pethidine HCl (<i>Meperidine</i>) 50mg /ml x 2 ml amp
188	Phenobarbital 130mg/ml injectable
189	Phenobarbital 15mg tab
190	Phenobarbital 30 mg tab
191	Phenobarbital 60mg tab
192	Propofol 10mg/ml x 20ml amp
193	Rocuronium 10mg/ml x 5 ml, vial

194	Sevoflurane 250 ml bottle
195	Succinyl Choline 20 mg/ml, 10 ml vial
196	Thiopental Na 500 mg vial
197	Zolpidem 10mg tablet
	G. ANTIDOTE
198	Acetylcysteine 200 mg sachet
199	Diphenhydramine 50mg/ml
200	Flumazenil 100 mcg/ml x 5 ml, amp
201	Naloxone 400mcg/ml x 1 ml, amp
202	Phytomenadione inj 10mg/ml amp
203	Pyridoxine 100 mg/ml x 10 ml, amp
204	Vit. C amp
	H. I.V. FLUIDS
205	5% Dextrose 0.3 NaCl, 500 cc
206	5% Dextrose 0.3 NaCl 1 Liter
207	5% Dextrose 0.9 NaCl 500 cc, 1L
208	5% Dextrose 0.9 NaCl 500 cc, 1L
209	5% Dextrose IMB 500ml
210	5% Dextrose LR 500 cc
211	5% Dextrose LR, 1 Liter
212	5% Dextrose NM, 500 cc
213	5% Dextrose NM, 1 Liter
214	5% Dextrose water, 1 Liter
215	5% Dextrose water, 500ml
216	Amino Acid solutions for hepatic failure 500 cc
217	Amino Acid solutions for immunonutrition 100 cc
218	Amino Acid solutions for renal conditions 500 cc
219	Combined glucose - amino acid solutions 500 ml
220	Dextran 40, 500ml
221	Dextran 70, 500ml
222	Sterile water for injection 50 ml bottle
223	plain LR 500 cc

224	plain LR, 1 Liter
225	plain 0.9 NaCl, 1 Liter
I.	CORRECTION OF WATER, ELECTROLYTES, ACID-BASE & CALORIC DISTURBANCES
226	Amino Acids solution (<i>Aminoleban</i>) 500cc infusion
227	Calcium Gluconate 10% amp/ vial
228	Potassium Chloride 2 meq/ml x 20ml vial
229	Sodium Bicarbonate 1 meq/ml x 10ml vial
230	Sodium Bicarbonate 1 meq/ml x 50 ml vial
231	Sodium Bicarbonate 1 meq/ml x 100 ml vial
J.	MUSCULO-SKELETAL SYSTEM & JOINTS
232	Celecoxib 200 mg, 400 mg tab
233	Mefenamic Acid 250 mg cap
234	Mefenamic Acid 500 mg cap
235	Methotrexate 25 mg/ ml x 2 ml vial
K.	UTERUS
236	Isoxsuprine 40 mg tab
237	Isoxsuprine 5 mg/ml x 2 ml amp
238	Methylergometrine Maleate 125mcg tab (S2)
239	Methylergometrine Maleate 200mcg/ml amp (S2)
240	Oxytocin 10 IU ampule
L.	ANTI-ALLERGICS
241	Cetirizine 10 mg tab
242	Cetirizine 5 mg/ml syrup
243	Chlorpheniramine Maleate 10mg/ml x 1 ml, ampule/ vial
244	Chlorpheniramine Maleate 2mg/5ml syrup
245	Chlorpheniramine Maleate 4mg tab
246	Promethazine 25mg/ml injectable

M.	IMMUNOLOGICALS
247	ATS 1,500 IU x 1 ml vial or ampule
248	ATS 1,500 IU x 1.5 ml vial or ampule
249	ATS 4,000 IU x 1 ml vial or ampule
250	Human tetanus immunglobulin 250 IU/ml 1 ml amp
251	Human tetanus immunglobulin 250 IU/ml 2 ml amp
252	Tetanus toxoid 0.5 ml amp
N.	NUTRITIONALS
252	D50-50, 50ml, vial
254	Multivitamins 500mg cap.
255	Multivitamins drops
256	Multivitamins syrup
257	Sodium Chloride 2.5meq/ml x 20 ml, vial
258	Vit. B Complex amp.
O.	HORMONES
259	Glibenclamide 5mg tab
260	Gliclazide 80mg tab
261	Metformin 500 mg tab
P.	BLOOD/ HEMATINICS
262	Dipyridamole 25mg tab.
263	Ferrous salt cap
264	Ferrous salt + folic acid tab
265	Folic acid tab
266	Tranexamic Acid 100mg/ml x 5 ml, amp
267	Tranexamic Acid 500mg tab
Q.	DISINFECTANTS
268	Ethyl alcohol 95%, for dilution to 70% (<i>w/ BIR seal</i>)
269	Hydrogen peroxide 3%, 120 ml bottle
270	Povidone Iodine oral antiseptic 1%, 60 ml bottle
271	Povidone Iodine oral antiseptic 1%, 120 ml bottle
272	Povidone Iodine paint 10%, 10 ml bottle
273	Povidone Iodine solution 10%, 60 ml bottle
274	Povidone Iodine solution 10%, 120 ml bottle

275	Povidone Iodine solution 10%, 1 Liter bottle
276	Povidone Iodine solution 10%, 1 Gallon bottle
R.	DERMATOLOGICALS
277	Fusidic acid 5g ointment
278	Mupirocin 15g tube, cream
279	Silver Sulfadiazine cream 50g tube
280	Silver Sulfadiazine cream 500g jar
281	Bacitracin + Neomycin + Polymyxin B (<i>Terramycin</i>) Ointment 5 g tube

Northern Samar Provincial Hospital
HOSPITAL PHARMACY MANAGEMENT
TERMS OF REFERENCE

Annex 2 - List of Non-pharmaceutical Products

1	ABSORBENT COTTON 400 MG
2	ADHESIVE PLASTER 5 cm (<i>Leukoplast</i>)
3	ASEPTO SYRINGE
4	BLOOD BAG 250 cc
5	BLOOD BAG 450 cc
6	BLOOD TRANSFUSION SET
7	CATHETER, FOLEY FR. 10 2-WAY
8	CATHETER, FOLEY FR. 12 2-WAY
9	CATHETER, FOLEY FR. 14 2-WAY
10	CATHETER, FOLEY FR. 16 2-WAY
11	CATHETER, FOLEY FR. 24 2-WAY
12	CATHETER, FOLEY FR. 8 2-WAY
13	CATHETER, THORACIC STRAIGHT FR. 24
14	CATHETER, THORACIC STRAIGHT FR. 32
15	CATHETER, THORACIC STRAIGHT FR. 36
16	COTTON BALLS
17	COTTON PLEDGET
18	DIGITAL AXILLARY THERMOMETER
19	DISPOSABLE NEEDLE G. 19
20	DISPOSABLE NEEDLE G. 23
21	DISPOSABLE NEEDLE G. 25
22	DISPOSABLE NEEDLE GAUGE 27, SHORT (<i>TERUMO</i>)
23	DISPOSABLE NEEDLE GAUGE 27, LONG (<i>TERUMO</i>)
24	DISPOSABLE SHAVER
25	DISPOSABLE SYRINGE SIZE 10mL W/NEEDLE, STERILE (<i>TERUMO</i>)
26	DISPOSABLE SYRINGE SIZE 1mL W/NEEDLE, STERILE (<i>TERUMO</i>)
27	DISPOSABLE SYRINGE SIZE 2.5mL W/NEEDLE, STERILE (<i>TERUMO</i>)
28	DISPOSABLE SYRINGE SIZE 3mL W/NEEDLE, STERILE (<i>TERUMO</i>)
29	DISPOSABLE SYRINGE SIZE 5mL W/NEEDLE, STERILE (<i>TERUMO</i>)
30	INSULIN SYRINGE WITHOUT NEEDLE
31	TUBERCULIN SYRINGE WITHOUT NEEDLE
32	DRESSING/ DRESSING KIT

33	ELASTIC BANDAGE 4"
34	ELASTIC BANDAGE 6"
35	ENDOTRACHEAL TUBE 2.5mm
36	ENDOTRACHEAL TUBE 3.0mm
37	ENDOTRACHEAL TUBE 3.5mm
38	ENDOTRACHEAL TUBE 4.0mm
39	ENDOTRACHEAL TUBE 4.5mm
40	ENDOTRACHEAL TUBE 5.0 mm
41	ENDOTRACHEAL TUBE 5.5 mm
42	ENDOTRACHEAL TUBE 6.0 mm
43	ENDOTRACHEAL TUBE 6.5 mm
44	ENDOTRACHEAL TUBE 7.0mm
45	ENDOTRACHEAL TUBE 7.5mm
46	ENDOTRACHEAL TUBE 8.0 mm
47	EXAMINATION GLOVES SIZE 7
48	INFUSION ADMINISTRATION SET WITH AIR VENT, WITHOUT NEEDLE, PEDIA
49	INFUSION ADMINISTRATION SET WITH AIR VENT, WITHOUT NEEDLE, ADULT
50	IV CATHETER - VASOCAN G. 20
51	IV CATHETER - VASOCAN G. 22
52	IV CATHETER - VASOCAN G. 24
53	IV CATHETER - VASOCAN G. 18
54	IV INFUSION PUMP SET
55	MACRO SET
56	MICRO SET
57	MICROPORE PLASTER 1 INCH
58	MICROPORE PLASTER 1/2 INCH
59	NEBULIZING KIT
60	OXYGEN MASK
61	NGT FR. 10
62	NGT FR. 12
63	NGT FR. 14
64	NGT FR. 16
65	NGT FR. 5
66	NGT FR. 6
67	NGT FR. 8
68	PLASTER OF PARIS 4"
69	PLASTER OF PARIS 6"
70	GAUZE BANDAGE
71	SCALP VEIN INFUSION SETS
72	SPINAL NEEDLE G. 23 (B-BRAUN)
73	SPINAL NEEDLE G. 25 (B-BRAUN)

74	SUCTION CATHETER FR. 10
75	SUCTION CATHETER FR. 12
76	SUCTION CATHETER FR. 16
77	SUCTION CATHETER FR. 5
78	SUCTION CATHETER FR. 8
79	SURGICAL BLADE NO. 15 FEATHER 100's
80	SURGICAL BLADE NO. 20 FEATHER 100's
81	SURGICAL CAP, 100's/PACK DISPOSABLE
82	SURGICAL FACE MASK, 50's/BOX DISPOSABLE
83	SURGICAL GAUZE 2" x 2"
84	SURGICAL GAUZE 4" x 4"
85	SURGICAL GLOVES 6.5, STERILE
86	SURGICAL GLOVES 7, STERILE
87	SURGICAL GLOVES 7.5, STERILE
88	UMBILICAL CORD CLAMP
89	URINE BAG 250cc
90	WADDING SHEET
91	WEE BAG

SUTURES:	
92	CHROMIC 1- ATRAUMATIC ROUND NEEDLE
93	CHROMIC 2-0 ATRAUMATIC ROUND NEEDLE
94	CHROMIC 3-0 ATRAUMATIC ROUND NEEDLE
95	SILK 1 STRANDS, 13x60cm
96	SILK 1 ATRAUMATIC ROUND NEEDLE
97	SILK 1 ATRAUMATIC ROUND NEEDLE
98	SILK 2-0 ATRAUMATIC ROUND NEEDLE
99	SILK 2-0 ATRAUMATIC CUTTING NEEDLE
100	SILK 2-0 STRANDS
101	SILK 3-0 ATRAUMATIC ROUND NEEDLE
102	SILK 3-0 ATRAUMATIC CUTTING NEEDLE
103	SILK 4-0 ATRAUMATIC CUTTING NEEDLE
104	SILK 4-0 ATRAUMATIC ROUND NEEDLE
105	PLAIN CHROMIC 2-0 ATRAUMATIC ROUND NEEDLE
106	VICRYL 1-0, TAPER NEEDLE
107	VICRYL 0, ROUND NEEDLE
108	VICRYL 2-0, TAPER NEEDLE
109	VICRYL 4-0, CUTTING NEEDLE
110	SAFIL 1-0, ROUND NEEDLE
111	SAFIL 4-0, ROUND NEEDLE
112	SAFIL 3-0, CUTTING NEEDLE

Northern Samar Provincial Hospital
HOSPITAL PHARMACY MANAGEMENT
TERMS OF REFERENCE

Annex 3 - Definition of Terms

When used in this Terms of Reference, in the preparation of the Proposals and the eventual negotiation of the Pharmacy Management Agreement, the following terms shall have the meanings respectively indicated below:

Gross Sales – The total value of sales and services, before deducting for taxes, customer discounts, allowances and returns

Hospital Pharmacy – The pharmacy in the NSPH which is subject of this TOR

Inpatient – Any person seeking or receiving medical treatment who is admitted to and confined at any of the Northern Samar Hospitals.

Inventories – The Pharmaceutical Products (and Non-Pharmaceutical products authorized by the Hospital) to be maintained, from time to time, in the Hospital Pharmacy or used as Rolling Stock in the various Hospital departments.

Net Sales – Gross Sales, less any legally mandated discounts like senior citizens discounts and persons with disability discounts

Non-Pharmaceutical Products – All products other than Pharmaceutical Products that may be sold at the Pharmacy.

Therapeutic List – a list of branded and/or generic drugs prepared and, from time to time, updated by the Therapeutics Committee of PGNS (which list shall be termed as “North Samar Therapeutic List”) or the NSPH (which list shall be termed as the “Hospital Therapeutic List”). It shall contain only Pharmaceutical Products that have been approved by the Philippine Food and Drugs Administration (FDA) and included in the Philippine National Drug Formulary (PNDF).

Outpatient – Any person seeking or receiving medical treatment at the NSPH who is not admitted and confined in the NSPH. It includes: (i) emergency room patients; (ii)

outpatient surgery patients of such hospital; and (iii) inpatients who have been discharged.

Pharmaceutical Products – All drugs and medicines, including tablets, capsules, injectables, liquids, ointments, medicated pads, inhalers, spray, suppositories, drops, IV solutions and IV additive drugs.

Pharmacy Staff – Any or all of the persons hired, employed, contracted or assigned by the Pharmacy Manager to render services or perform any work in and for the Hospital Pharmacy and whose work requires physical presence in the Hospital Pharmacy and actual and direct involvement in pharmacy operations. The term does not include the management of the Pharmacy Management or its officers, employees, consultants and other professionals not directly involved in the day to day pharmacy operations inside the premises of the Hospital Pharmacy.

Rolling Stock – the Pharmaceutical Products and Non-Pharmaceutical Products which are stored at the various NSPH departments, as may be designated by the NSPH from time to time, which are available for distribution or dispensing to the patients (whether Inpatient or Outpatient) of the NSPH.

Selling Price – The retail price of the Hospital Pharmacy of a Pharmaceutical Product or Non-Pharmaceutical Product.

In the interpretation of this Terms of Reference, words importing the singular shall be deemed to include the plural, and vice versa.

The above terms and definitions shall apply unless otherwise amended in writing by the Bid Committee subsequent to the issuance of this TOR.

Section IV. Bidding Forms

PREQUALIFICATION DOCUMENTS SUBMISSION FORM

[Date]

[Name and address of the PGNS]

Ladies/Gentlemen:

In connection with your Invitation to Bid dated [insert date] for the Lease, Management and Operation of the Pharmacy of Northern Samar Provincial Hospital, [Name of Bidding Firm] hereby expresses interest in participating in the bidding for said Project and submits the attached bid requirements in compliance therefor.

In line with this submission, we certify that:

- a) [Name of Firm] is not blacklisted or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board; and
- b) Each of the documents submitted herewith is an authentic copy of the original, complete, and all statements and information provided therein are true and correct.

We acknowledge and accept the PGNS's right to inspect and audit all records relating to our submission irrespective of whether we are declared prequalified or not.

Yours sincerely,

Signature
Name and Title of Authorized Signatory
Name of Bidding Firm
Address

PROPOSAL SUBMISSION FORM

[Date]

[Name and address of the PGNS]

Ladies/Gentlemen:

We, the undersigned, offer to provide the services for the Lease, Management and Operation of the Pharmacy of Northern Samar Provincial Hospital in accordance with the Terms of Reference and your Bidding Documents dated [insert date] and our Bid. Our attached Price Proposal is for a rental fee of Three Hundred Pesos (PhP 300.00) per square meter of the hospital pharmacy, and a revenue share of percent () of the net sales, derived from the hospital pharmacy, and paid monthly to the PGNS. Our Price Proposal shall be binding upon us, up to expiration of the bid validity period, i.e., [Date].

We acknowledge and accept the PGNS's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the PGNS as a result of this Bid.

We confirm that we have read, understood and accept the contents of the Instructions to Bidders (ITB), the Terms of Reference (TOR), the provisions relating to the prequalification of the Bidder and any and all Bid bulletins issued and other attachments and inclusions included in the Bidding Documents sent to us.

We understand you are not bound to accept any Bid you receive.

We remain,

Yours sincerely,
Authorized Signature:
Name and Title of Signatory:
Name of Firm:
Address:

PRICE PROPOSAL

Item	Amount in Philippine Peso per month	Revenue Share (% of net sales)
A. PhP 300.00 rental per square meter of the hospital pharmacy with a total area of 25 square meters.	7,500.00	
B. Revenue share expressed in percentage of net sales derived from the hospital pharmacy and paid monthly		[indicate in words and figures]

Name of Bidder: _____

Authorized Representative: _____

Position: _____

Signature: _____

Date: _____

OMNIBUS SWORN STATEMENT

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

AFFIDAVIT

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. *Select one, delete the other:*

If a sole proprietorship: I am the sole proprietor of *[Name of Firm]* with office address at *[address of Firm]*;

If a partnership, corporation, cooperative, or joint venture: I am the duly authorized and designated representative of *[Name of partnership, corporation, cooperative or joint venture]* with office address at *[address of partnership, corporation, cooperative or joint venture]*;

2. *Select one, delete the other:*

If a sole proprietorship: As the owner and sole proprietor of *[Name of Firm]*, I have full power and authority to do, execute and perform any and all acts necessary to represent it in the bidding for *[Name of the Project]* of the PGNS;

If a partnership, corporation, cooperative, or joint venture: I am granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the *[Name of partnership, corporation, cooperative or joint venture]* in the bidding as shown in the attached *[state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate issued by the corporation or the members of the joint venture)]*;

3. *[Name of Firm]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;
4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
5. *[Name of Firm]* is authorizing the Head of the PGNS or its duly authorized representative(s) to verify all the documents submitted;

6. *Select one, delete the rest:*

If a sole proprietorship: I am not related to the Head of the PGNS, members of the PPP-SC, the Technical Working Group, and the PPP-SC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a partnership or cooperative: None of the officers and members of *[Name of partnership or cooperative]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a corporation or joint venture: None of the officers, directors, and controlling stockholders of *[Name of corporation or joint venturer]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. *[Name of Bidder]* complies with existing labor laws and standards; and
8. *[Name of Bidder]* is aware of and has undertaken the following responsibilities as a Bidder:
- a) Carefully examine all of the Bidding Documents;
 - b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
 - c) Made an inspection of the facilities available and needed for the contract to be bid, if any; and
 - d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of ___, 20___ at _____, Philippines.

[Bidder's Representative/Authorized Signatory]

[JURAT]



Republic of the Philippines
PROVINCE OF NORTHERN SAMAR
Catarman

PUBLIC-PRIVATE PARTNERSHIP SELECTION COMMITTEE

Invitation to Bid

NS-05-11-12

***Public-Private Partnership (PPP) for the Lease, Management and Operation
of the Pharmacy of Northern Samar Provincial Hospital***

1. The Provincial Government of Northern Samar (PGNS) is currently working with the Development Bank of the Philippines (DBP) and Asian Development Bank (ADB) under the Credit for Better Health Care Project (CBHCP) to strengthen the governance structure of the health sector of the province to improve the overall health status of its constituents, particularly in the areas of maternal and child health, control of communicable diseases, basic health care, hospital referral and laboratory and diagnostic services, through various forms of Private Public Partnerships (PPP). One of the areas identified for PPP is the management and operation of the hospital pharmacies and drug rooms in Northern Samar.
2. At present, there are nine (9) hospitals managed and operated by the provincial government in Northern Samar, with a total authorized capacity of three hundred seventy (370) beds. These are the Northern Samar Provincial Hospital in Catarman, with 120 beds; the district hospitals in Allen and GB Tan, with 50 beds each; and the district hospitals in Biri, Capul, Catubig, Gamay, San Antonio and San Vicente, with 25 beds each. The pharmacies and drug rooms in all these hospitals are currently being managed and operated by PGNS through their respective hospital management. PGNS would like to improve the services in the Hospital Pharmacies by inviting third party entities qualified and capable of bringing their expertise in the area of pharmacy administration and operations.
3. This Invitation to Bid (ITB) is for the PPP for the lease, operation and management of the pharmacy of the Northern Samar Provincial Hospital ("the Hospital Pharmacy").
4. The PGNS now calls for the submission of eligibility documents and bids for the PPP for the lease, operation and management of the Hospital Pharmacy. Eligibility screening shall cover the firm's qualifications to perform the services as evidenced by business registration documents, permits, experience in similar contracts, financial statements and other documents specified in the Terms of Reference (TOR).
5. The bidding documents shall be available for sale in the amount of *Twelve Thousand Pesos only (12,000.00)* at the Office of the PPP-SC Secretariat in the Provincial Capitol of Northern Samar from 8:00 am to 5:00 pm of May 17, 2012 to June 07, 2012.
6. A bid security in the amount of Two Hundred Forty thousand pesos (PhP 240,000.00) in the form of cash, cashier/manager's check, bank draft/guaranty, or irrevocable letter of credit issued by a commercial bank shall be posted by the bidder.

7. PGNS will hold a Pre-Bid Conference on *May 24, 2012 10:00AM* at Governor's Conference room 2nd floor left wing, New Capitol Building which shall be open to all interested parties who have purchased the bidding documents.
8. Interested firms must submit their eligibility documents and bids on or before *June 07, 2012 10:00 AM* at *BAC Office 2nd floor New Capitol Building*, during which bids shall also be opened. Late bids shall not be accepted.
9. This PPP activity will be conducted through open competitive procedures as provided by the Northern Samar PPP Code. Republic Act No. 9184, otherwise known as the Government Procurement Reform Act shall apply in a suppletory manner.
10. Contract duration shall be three (3) years.
11. The PGNS reserves the right to reject any and all bids, annul the bidding process, or not award the contract at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.
12. For further information, please refer to:

Atty. Eduardo D. Dela Cruz
PPP-SC Chairman
Provincial Administrator Office
Tel No. 055-251-8175
Fax No. 055-251-8900
www.northernsamar.ph

May 11, 2012



Atty. Eduardo D. Dela Cruz
PPC-SC Chairman



**PUBLIC-PRIVATE PARTNERSHIP
FOR THE LEASE, OPERATION AND MANAGEMENT OF THE
PHARMACY OF THE NORTHERN SAMAR PROVINCIAL HOSPITAL**



This Public Private Partnership for the Lease, Operation and Management of the Northern Samar Provincial Hospital ("**Agreement**") is made this October 10, 2012 (the "**Signature Date**") in Palo, Leyte, Philippines, by and between:

The Provincial Government of Northern Samar, a duly organized and existing Local Government Unit, represented herein by Governor Paul R. Daza, hereinafter referred to as the "**PGNS**";

and

PLANET DRUGSTORE CORP., a corporation duly organized and existing under the laws of the Philippines, with principal office at 137 Marina Street, Barangay Balong Bato, San Juan City, represented herein by its President, Erwin Zshornack, hereinafter referred to as the "**Company**".

The foregoing entities are hereinafter collectively referred to as the "**Parties**".

RECITALS:

WHEREAS, PGNS seeks to enhance the delivery of health services, particularly the availability and affordability of essential pharmaceutical products and supplies in the Northern Samar Provincial Hospital ("NSPH") pharmacy (the "Hospital Pharmacy");

WHEREAS, PGNS seeks to improve pharmacy processes and operating standards by engaging private sector entities with expertise and experience in pharmacy operations, particularly in areas of inventory management, clinical pharmacy and quality management;

WHEREAS, PGNS has determined that a Private Public Partnership for the lease, operation and management of the Hospital Pharmacy to ensure the availability of locally competitively-priced and FDA-registered pharmaceutical products;

WHEREAS, the Company has been selected by PGNS to undertake the Project on the terms and conditions set forth in this Agreement as the result of a competitive public bidding process conducted by PGNS;

NOW THEREFORE, for and in consideration of these premises and the mutual commitments, obligations and undertakings assumed and accepted hereunder, the Parties have agreed as follows:

1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Agreement shall have the following meanings:

“Accounting Principles” means the generally accepted accounting principles applicable from time to time in the Philippines, as determined by the Financial Reporting Standards Council or its successor body.

“Affiliate” means, with respect to any specified person, any other person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person. For purposes of this definition, “control” means the ownership, directly or indirectly, or as trustee, personal representative, or executor, of more than fifty percent (50%) of the outstanding capital stock of such person or other equity interests having the power to elect a majority of the board of directors, or similar body governing the affairs of such person, or the power to direct or cause the direction of the business affairs or management of such person.

“Auditors” means the independent public accountants appointed by the Company with the prior written approval of PGNS.

“Billing Month” means the first day of the calendar month up to the last day of the calendar month.

“Change-in-Law” means any of the following events occurring as a result of any action by any Government Authority of the Philippines:

- (a) A change in or repeal of a Legal Requirement;
- (b) An enactment or making of a new Legal Requirement; or
- (c) A change in the interpretation or the application of a Legal Requirement, which in any case was not reasonably foreseeable at the Signature Date, but not a change in Taxation.

“Change of Ownership” means:

- (a) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Company, including control over (i) the exercise of voting rights conferred on those shares, (ii) the right to elect, appoint or remove directors, or (iii) the right to declare dividends; and
- (b) any other arrangements that have or may have or which result in the same effect as paragraph (a) above.

“Claims” means with respect to any person, any and all suits, sanctions, legal proceedings, claims, assessments, judgments, damages, penalties, fines, liabilities, demands, reasonable out-of-pocket expenses of whatever kind (including reasonable attorneys’ fees and expenses) and losses incurred or sustained by or against such person but excluding any lost profits or other special, incidental, indirect, punitive, or consequential damages suffered by such person.

“COA” means the Commission on Audit.

“Company Event of Default” is defined in Section 16.1.

“Company Invoice” is defined in Section 9.3.

“Company Parties” is defined in Section 15.2.

“Confidential Information” is defined in Section 22.4.1.

“Consent” means any permit, license, approval, concession, right, award, registration, certification, waiver, exemption, or other authorization, including any amendments thereto, that is required from any Government Authority under the terms of or in connection with this Agreement.

“Day” means a 24-hour period beginning and ending at midnight, Philippine time.

“Dispute” means any difference or disagreement of any kind whatsoever arising between the Parties in connection with, arising out of, or relating to the interpretation, implementation, breach, termination, or validity of this Agreement.

“Effective Date” is defined in Section 2.1.

“Equity” means (i) the capital stock, of any class, of the Company subscribed to by the Shareholders of the Company, including (ii) indebtedness of the Company given to it by a Shareholder or an Affiliate of any Shareholder.

“Event of Default” is defined in Section 16.

“Event of Loss” means any occurrence during the term of the Agreement which results in all or a substantial portion of the Hospital Pharmacy being damaged, destroyed, or rendered unfit for normal operation in accordance with this Agreement.

“Force Majeure Event” is defined in Section 14.1.1.

“Government Authority” means any government, department, commission, board, bureau, agency, regulatory body, instrumentality, fiscal, legislative, judicial, or administrative, national or local, having jurisdiction or authority over the matter in question.

“Gross Sales” is the total value of sales and services, before deducting for taxes, customer discounts, allowances and returns

“Hospital Pharmacy” means the existing pharmacy in the NSPH which is subject of this Agreement.

“Inpatient” is any person seeking or receiving medical treatment who is admitted to and confined at any of the Northern Samar Hospitals.

“Intellectual Property Rights” means all rights of ownership recognized by law in inventions, technology, copyrighted material, computer software, and firmware, including (a) patents, trademarks, service marks, rights in designs, trade names, copyrights, rights to trade secrets, proprietary information, and know-how in each case whether registered or not; (b) applications for their registration; (c) rights under licenses and consents in relation to any of them; and (d)

all forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world.

“Inventory” means the Pharmaceutical Products and Non-Pharmaceutical products authorized by the Hospital maintained, from time to time, in the Hospital Pharmacy.

“Legal Requirements” means all laws, statutes, orders, decrees, injunctions, Consents, agreements, and regulations of any Government Authority having jurisdiction over the matter in question.

“Leased Premises” is defined in Section 5.1.

“Lien” means any mortgage, pledge, lien, security interest, option agreement, claim, charge, or encumbrances of any kind.

“Net Sales” means Gross Sales, less any legally mandated discounts like senior citizens discounts and persons with disability discounts.

“Non-Pharmaceutical Products” means all products other than Pharmaceutical Products that may be sold at the Pharmacy as listed in Schedule A and as may be revised from time to time.

“Non-Political Force Majeure Event” is defined in Section 14.1.3.

“Notice of PGNS Event of Default” is defined in Section 21.1.1(c).

“Notice of Company Event of Default” is defined in Section 21.1.1(b).

“Operating Period” means the period commencing on the Effective Date and ending on the Termination Date.

“Outpatient” means any person seeking or receiving medical treatment at the NSPH who is not admitted and confined in the NSPH. It includes: (i) emergency room patients; (ii) outpatient surgery patients of such hospital; and (iii) inpatients who have been discharged.

“Party” means PGNS or the Company, as the case may be, and ***“Parties”*** means both PGNS and the Company.

“Performance Security” is defined in Section 6.2.

“Performance Standards” or ***“PS”*** means the required levels of service, contractual commitments, and operating standards for the Hospital Pharmacy that are stipulated in relevant provisions of this Agreement and specifically referred to in Section 7.3 and Schedule F (*Performance Standards*), or as may be further developed, revised or amended in accordance with this Agreement.

“Penalty Rate” means one percent (1.0%) per month.

“Peso”, ***“P”***, and ***“PHP”*** mean the lawful currency of the Republic of the Philippines.

“PGNS Event of Default” is defined in Section 16.2.

“PGNS Parties” is defined in Section 15.1.

“PGNS Step-in Rights” is defined in Section 18.1.

"Pharmaceutical Products" are all drugs and medicines, including tablets, capsules, injectables, liquids, ointments, medicated pads, inhalers, spray, suppositories, drops, IV solutions and IV additive drugs, as listed in Schedule B and as may be revised from time to time.

"PHIC" means the Philippine Health Insurance Corporation.

"Philippines" means the Republic of the Philippines.

"Political Force Majeure Event" is defined in Section 14.1.2.

"Project" means the undertaking, in line with the terms and conditions of this Agreement and all Legal Requirements, to lease, operate and manage the Hospital Pharmacy.

"Prudent Utility Practice" means applying, in relation to the manner in which the operation and management of the Hospital Pharmacy, the standards, practices, methods and procedures conforming to all Legal Requirements, and exercising that degree of skill, care, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under similar circumstances, including taking reasonable steps to ensure that:

- (a) adequate materials, resources, and supplies are available to meet the Hospital Pharmacy's needs under normal conditions and reasonably anticipated abnormal conditions and to ensure that the Pharmaceutical Products and Non-Pharmaceutical Products are available on a twenty four hours a day and seven days a week basis under both normal and abnormal conditions;
- (b) sufficient and duly licensed operating personnel (i) are available, (ii) are adequately experienced and trained to operate the Hospital Pharmacy properly and efficiently taking into consideration manufacturers' guidelines and specifications in full compliance with the provisions of Section 6.3 of this Agreement, and (iii) are capable of responding to abnormal conditions, including, without limitation, conditions in Section 7.1.2 (c); and
- (c) appropriate monitoring is done to ensure the Hospital Pharmacy is being operated and managed in accordance with applicable Performance Standards and to ensure that the Pharmaceutical Products and Non-Pharmaceutical Products are available on a twenty four hours a day and seven days a week basis under both normal and abnormal conditions.

"SEC" means the Philippine Securities and Exchange Commission.

"Selling Price" means the retail price of the Hospital Pharmacy of a Pharmaceutical Product or Non-Pharmaceutical Product.

"Shareholder" means any person owning any of the outstanding capital stock (of any class) of the Company.

"Signature Date" means the date of signing of this Agreement as indicated in the preamble.

"Tax" means any net income, gross income, gross receipts, sales, use, transfer, gains, *ad valorem*, franchise, profits, capital gains, license, value-added, withholding, payroll, employment, professional, business, excise, stamp, occupation, premium, property, environmental, windfall profit, documentary, registration, severance, custom duty, governmental fee, other like assessment or charge of any kind whatsoever imposed pursuant to the laws of any national, local, or foreign jurisdiction or by any political subdivision or taxing

authority, together with any interest, penalty or other payment charged, and any liability for such amounts under all applicable laws as a result either of being a member of a combined, consolidated, unitary or affiliated group or of a contractual obligation to indemnify any person or other entity.

“Termination Date” means the date when any of the following events occurs first:

- (a) termination of this Agreement pursuant to Section 2.3.1 (*Termination due to Non-Occurrence of Effective Date*);
- (b) termination of this Agreement pursuant to Section 21.1 (*Termination due to an Event of Default*);
- (c) termination of this Agreement pursuant to Section 21.2 (*Termination due to Prolonged Force Majeure Events*); or
- (d) on the third (3rd) anniversary of the Effective Date.

“Termination Notice” is defined in Section 21.1.1(a).

“Therapeutic List” is the list of branded and/or generic drugs prepared and, from time to time, updated by the Therapeutics Committee of PGNS (which list shall be termed as “North Samar Therapeutic List”) or the NSPH (which list shall be termed as the “NSPH Therapeutic List”). It shall contain only Pharmaceutical Products that have been approved by the Philippine Food and Drugs Administration (FDA) and included in the Philippine National Drug Formulary (PNDF).

1.2 Principles of Interpretation

In the interpretation of this Agreement, unless the context otherwise requires:

- (a) Words importing a gender include any gender.
- (b) Words importing the singular number shall include the plural and *vice versa*.
- (c) References to persons shall include individuals, sole proprietorships, partnerships, associations, trusts, joint ventures, unincorporated organizations, corporations, States, governments and governmental entities.
- (d) References in this Agreement to any statute, law, decree, regulation, or other Legal Requirement shall be construed as a reference to such statute, law, decree, regulation, or other Legal Requirement as re-enacted, re-designated, amended, or extended from time to time, except as otherwise provided in this Agreement.
- (e) A reference to any person, Party, or entity includes its permitted successors and assigns. A reference to any government agency or authority shall include any PGNS or authority succeeding to such agency’s or authority’s powers and functions.
- (f) The words “include” or “including” shall be deemed to be followed by “without limitation” or “but not limited to,” whether or not they are followed by such phrases or words with the same meaning.

- (g) References to a number of days shall refer to calendar days and references to “months” shall refer to calendar months.
- (h) The division of this Agreement into articles, clauses and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (i) The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular article, clause, section or other portion hereof and include any agreement supplemental hereto.
- (j) Unless something in the subject matter or context is inconsistent therewith, references to articles, clauses, sections and schedules are to articles, clauses, sections and schedules of this Agreement.
- (k) No provision of this Agreement shall be construed adversely to a Party solely on the ground that that Party was responsible for the preparation of this Agreement or that provision.

ARTICLE I

CONDITIONS PRIOR TO EFFECTIVE DATE

2 CONDITIONS PRECEDENT TO EFFECTIVE DATE

2.1 Conditions Precedent to the Effective Date

This Agreement shall be effective and the Parties shall be bound by all its terms and conditions on the date (the “**Effective Date**”) when the following conditions have been fully satisfied or waived by the Parties and a written notice to such effect has been jointly signed by them:

- (a) The Company shall have delivered a signed true and correct copy of the Agreement to PGNS.
- (b) For corporations and partnerships, certified true copies of resolutions adopted by the board of directors of the Company authorizing the signing, delivery, and performance of this Agreement shall have been delivered to PGNS.
- (c) True and correct copies of the articles of incorporation and by-laws (if a corporation) or articles of partnership (if a partnership) of the Company, including all amendments thereto, certified by its corporate secretary and the SEC, shall have been delivered to PGNS.
- (d) All Consents that are required to have been obtained in connection with the execution, delivery, exercise of rights, and commencement of performance of this Agreement shall have been obtained and continue to be in full force and effect, including but not limited to, the Consents listed on Schedule G.
- (e) The Performance Security required from the Company pursuant to Section 6.2 shall have been executed and delivered to PGNS and shall be in full force and effect.

- (f) Certified true copies of certificates of insurance coverage evidencing compliance with the requirements for insurance needed to be in force as of the Effective Date shall have been delivered to PGNS.
- (g) The representations and warranties of the Company contained or incorporated herein by reference shall be true and correct in all material respects on and as of the Effective Date and PGNS shall have received a certificate to that effect dated as of the Effective Date and signed by the corporate secretary of the Company.
- (h) No Legal Requirement shall have been enacted, entered, promulgated, or enforced by any Government Authority having jurisdiction over the matter that restrains, prohibits, or declares illegal the consummation of the transactions contemplated in the Agreement and no action, suit, inquiry, or proceeding shall have been instituted or threatened that seeks to restrain, prohibit, or declare illegal the consummation of the transactions contemplated by this Agreement. Each Party, through its respective corporate secretary or chief legal officer, shall issue a sworn statement to this effect.
- (i) Certified true copies of resolutions adopted by the Provincial Board of the Province of Northern Samar authorizing the execution, delivery, and performance of this Agreement shall have been delivered to the Company.
- (j) Possession and control over the Leased Premises is turned-over to the Company.
- (k) PGNS shall have submitted to the Company an irrevocable letter of credit or bank guaranty callable on demand in the sum of P3.5 million effective for three years.

2.2 Reasonable Efforts to Satisfy Conditions Precedent

- (a) Each Party shall use all reasonable efforts to satisfy the conditions enumerated in Section 2.1 within ten (10) days from Signature Date. On each date that a Party believes that any of the conditions precedent has been satisfied, it shall promptly give written notice of that fact to the other Party together with copies of all relevant documents which satisfy that condition.
- (b) Without prejudice to the rights of the Parties to terminate this Agreement pursuant to Section 21.2, if the occurrence of the Effective Date is delayed by a Force Majeure Event, the Parties shall confer on the effects of such delay and may mutually agree to extend the period for compliance with Section 2.1. The Parties shall endeavor to reschedule activities and resume the performance of their obligations in a way that will avoid or minimize any further delay.

2.3 Non-Occurrence of Effective Date

2.3.1 Termination due to Non-Occurrence of Effective Date

- (a) PGNS may extend the period for the Company to comply with its obligations under Section 2.1 or may terminate this Agreement with immediate effect by giving written notice thereof to the Company if any of the conditions precedent set forth in Sections 2.1(a) through (h) inclusive has not been fifteen (15) days period after the Signature Date.
- (b) The Company may extend the period for PGNS to comply with its obligations under Section 2.1 or may terminate this Agreement with immediate effect by giving written

notice thereof to PGNS if any of the conditions precedent set forth in Sections 2.1(h) to (j) has not been satisfied fifteen (15) days period after the Signature Date.

2.3.2 Consequences of Termination

If this Agreement is terminated by PGNS pursuant to Section 2.3.1 due to the failure of the Company to comply with its obligation under 2.1, then PGNS can call on the full amount of the bid bond posted by the Company, then this Agreement shall have no further effect. The Parties shall have no further rights and shall be released from all their obligations under this Agreement except in respect of any rights or obligations arising before the termination occurred.

2.4 Specific Provisions Effective on the Signature Date

The following sections shall be binding and effective on the Signature Date and the Parties' rights or obligations under those clauses shall not be conditional on the occurrence of the Effective Date:

- (a) Section 1 (*Definitions, Principles of Interpretation, and Priority of Documents*);
- (b) Section 2 (*Conditions Precedent to Effective Date*);
- (c) Section 12 (*Representations and Warranties*);
- (d) Section 14 (*Force Majeure*);
- (e) Section 15 (*Indemnity*);
- (f) Section 17 (*Limitation of Liability*);
- (g) Section 19 (*Assignment of Rights; Ownership of the Company*);
- (h) Section 20 (*Dispute Resolution*); and
- (i) Section 22 (*General Provisions*).

ARTICLE II TERM OF THE AGREEMENT

3 TERM OF THE AGREEMENT

3.1 Contract Term

Subject to Section 2.4 (*Specific Provisions Effective on the Signature Date*), the term of this Agreement runs from the Effective Date until the Termination Date.

3.2 Provisions In Force

From the Signature Date until the Effective Date, the provisions enumerated in Section 2.4 (*Specific Provisions Effective on the Signature Date*) shall be in full force and effect. From the Effective Date until the Termination Date, all of the provisions of this Agreement shall be in full force and effect.

ARTICLE III

CONDITIONS AFTER EFFECTIVE DATE

4 IMPLEMENTATION

4.1 Scope

The Project shall comprise the lease, management and operation by the Company of the Hospital Pharmacy during the term of this Agreement, including the transfer or turnover of the possession thereof upon the Termination Date, in accordance with this Agreement and all applicable laws. PGNS shall have the option to purchase all or a portion of the remaining Inventory of the Pharmaceutical Products and Non-Pharmaceutical Products of the Company upon Termination Date at a price to be mutually agreed upon by the Parties.

4.2 Grant of Rights

On the terms and subject to the conditions set forth in this Agreement, PGNS hereby grants to the Company in compliance with all Legal Requirements the sole and exclusive right and responsibility during the term of this Agreement to:

- (a) Exclusively sell and dispense Pharmaceutical Products and Non-Pharmaceutical Products at the Hospital except for donated products which may be dispensed by NSPH free of charge to patients;
- (b) Use, occupy, operate, and manage the Hospital Pharmacy.

4.3 Consents and Approvals

Except for the Consents that PGNS is required to secure in accordance with Schedule G (*Consents*), the Company shall at its cost be responsible for obtaining all other Consents required for the lease, operation and management of the Hospital Pharmacy.

4.4 ~~6~~ Title and Risk of Loss

Risk of loss of the stocks and Inventory of Pharmaceutical Products and Non-Pharmaceutical Products after Effective Date shall be borne by the Company during the Operating Period.

The existing Inventory of all medicines and drugs prior to Effective Date shall be disposed of by PGNS in a manner it may deem appropriate and in compliance with Legal Requirements.

5 LEASE OF THE HOSPITAL PHARMACY

5.1 General Responsibilities of the Company

The Company shall lease the current space occupied by the Hospital Pharmacy consisting of 25 square meters, more or less, (the "Leased Premises"), the location, area and boundaries of which is attached in Schedule C, in compliance with:

- (a) Prudent Utility Practice;
- (b) all applicable Legal Requirements; and

5.2 Further Responsibilities Related to the Leased Premises

For the purpose of performing its obligations under Section 5.1 (*General Responsibilities of the Company*), the Company shall:

- (a) Be responsible for paying the costs of electrical, water, telephone and other utility charges, including the cost of installation and deposits related thereto, which are separately and exclusively used and consumed within the Leased Premises;
- (b) Use the Leased Premises exclusively for the operation of a pharmacy. The Company and its employees shall use the Leased Premises in a professional manner.
- (c) Construct or make any alterations, improvements, or changes in any part of the Leased Premises, including electrical installations, plumbing and other fixtures, only after securing the prior written consent of PGNS, which consent shall not be unreasonably withheld. The costs of any construction or alteration on or within the Leased Premises shall be borne by the Company. Upon Termination Date, PGNS shall have the option to either appropriate any permanent improvement introduced or within the Leased Premises, without any right of reimbursement to the Company, or demand the restoration of the Leased Premises to its original condition when first delivered to the Company, at the expense of the Company;
- (d) Not sublease the Leased Premises, nor allow any person or corporation to occupy the same, in whole or in part, nor shall the Corporation assign, in whole or in part, any of its rights under this Agreement, without the prior written approval of PGNS; and
- (e) Take the necessary measures for the maintenance, cleanliness, security and upkeep of the Leased Premises, and to protect people and property, avoid unnecessary interference caused by people and equipment, and prevent any other nuisance and unreasonable disturbance.

6 OPERATION AND MAINTENANCE

6.1 Operation and Maintenance Responsibilities of the Company

The Company shall be responsible for all the aspects related to the management and operation of the Hospital Pharmacy from the Effective Date until the Termination Date and shall ensure during such period that the Hospital Pharmacy operate in accordance with all Legal Requirements, Prudent Utility Practice, and the PS.

6.2 Performance Security

Within ten (10) Days from the Signature Date, the Company shall provide and deliver to PGNS a Performance Security in the form of cash, manager's check, irrevocable letter of credit or bank guaranty in a form acceptable to PGNS, callable on demand and issued by a universal bank as security for the performance by the Company of its obligations under this Agreement from the Effectivity Date until the Termination Date (the "**Performance Security**"). The Performance Security shall have a value equivalent to PHP 3,000,000.00.

6.3 Company Staff

- (a) The Company shall ensure that a sufficient number of its personnel possess the necessary license, qualifications, expertise and experience most appropriate to operate

the Hospital Pharmacy, and are on duty on the Days and during the hours needed to meet the Performance Standards (PS) and as called for by Prudent Utility Practice.

- (b) It is understood that staff provided by the Company for the purpose of performing all services under this Agreement are the employees of the Company or its subcontractors, and under no circumstances will be considered employees of PGNS.
- (c) The Company shall give first preference and priority to hiring any qualified employee of the NSPH that may be affected by virtue of this Project. In the selection and hiring of its employees, the Company shall likewise give priority to qualified applicants who are residents of the Province of Northern Samar. This provision shall not be construed as a limitation on the Company's prerogative in the selection and hiring of its employees.

7 OPERATION AND MANAGEMENT OF THE HOSPITAL PHARMACY

7.1 Company Responsibilities

The Company shall, at its cost, perform and be responsible, for the duration of the Agreement, the following:

7.1.1 General Operations

- (a) At its expense, manage and operate the Hospital Pharmacy and assume full responsibility for its management and operations.
- (b) Make available on twenty-four hours and seven days a week basis all the Pharmaceutical Products and Non-Pharmaceutical Products, including intravenous fluids, listed in the Northern Samar Therapeutic List ("NSTL") and included by the Therapeutics Committee of the NSPH where applicable.
- (c) Secure and maintain all appropriate licenses and permits for the operations and management of the Hospital Pharmacy and its pharmacy personnel;
- (d) Prepare Pharmaceutical Products for Inpatient and Outpatient dispensing, in accordance with pertinent laws, rules and regulations, and PHIC accreditation guidelines at all times, and advise and coordinate with the management of NSPH on such matters;

7.1.2 Inventory

- (a) Purchase and maintain for its account sufficient inventories of Pharmaceutical Products and Non-Pharmaceutical Products listed in the NSTL for the Hospital Pharmacy;
- (b) Prepare monthly reports for submission to PGNS on the composition and size of inventories in accordance with the NSTL and historical consumption patterns of NSPH;
- (c) As soon as possible, make available additional Pharmaceutical Products and Non-Pharmaceutical Products necessary due to any or a combination of the following:
 - i. emergency situations resulting from an unusually large number of Inpatients/Outpatients;
 - ii. sudden increase in demand by retail customers;
 - iii. unforeseen or unavoidable circumstances; or
 - iv. any other cases of extreme urgency requiring immediate purchase

7.1.3 Pricing/Billing

- (a) Sell or dispense Pharmaceutical Products and Non-Pharmaceutical Products at locally competitive prices consistent with pertinent laws. The Selling Prices shall be posted conspicuously within Hospital Pharmacy premises. For purposes of this Agreement, Selling Prices shall be no higher than the average of the three leading drugstores in Catarman, Northern Samar for comparable drugs and medicines, preferably from the same manufacturer.
- (b) Prepare and issue the charge slips (for Inpatients) or sales invoices (for Outpatients) and issue the corresponding receipts for cash sales.
- (c) Implement a pharmacy management and cash receipting system as well as an electronic and real time point of sale monitoring system for the Hospital Pharmacy that reflect the Selling Price and are compatible with the NSPH and PHIC accounting systems.

7.1.4 Other Responsibilities of the Company

In addition to the responsibilities set forth above, the Pharmacy Manager shall:

- (a) Manage, audit, and implement procedures that will help in capturing information on Inpatient and Outpatient sales and utilization on a daily basis;
- (b) Submit monthly reports to the NSPH with such information and in such format as may be required by the latter's policies and procedures, and such other reports as may be reasonably required by the NSPH from time to time;
- (c) Coordinate with the appropriate committees and departments of the NSPH to ensure adherence to quality assurance and thus improve patient outcome;
- (d) Abide by, and cause its personnel to comply with, any and all laws, rules and regulations, policies and guidelines that may be adopted from time to time by the management of the NSPH;
- (e) Report adverse drug reactions to the Therapeutics Committee of the NSPH
- (f) Conduct Corporate Social Responsibility (CSR) activities at least twice a year.

7.1.5 Dispensing to Indigents Who Have Exceeded PHIC and Other Government Assistance Limits

The Company shall be under no obligation to sell or dispense Pharmaceutical and Non-Pharmaceutical Products to patients who have exceeded their PHIC or other government assistance limits.

7.2 PGNS Responsibilities

- (a) Pay for the Pharmaceutical Products and Non-pharmaceutical Products dispensed to indigents or other deserving cases not covered by PHIC, as endorsed by PGNS, and subject to limits to be set by PGNS;

- (b) Pay for the Pharmaceutical and Non-pharmaceutical Products dispensed by the Company for extremely urgent cases and for which no prior endorsement by PGNS could be reasonably obtained;
- (c) Pursue province-wide PHIC coverage for its constituents for the duration of the Operating Period;
- (d) Actively ensure proper and immediate processing by PHIC of reimbursement claims and promptly remit the same to the Company upon receipt;
- (e) Provide, from time to time, training of the Company's staff on the regulations, policies and service standards of the NSPH;
- (f) Allow a representative of the Company to participate in relevant meetings of the NSPH committees and departments, including the Therapeutics Committee, to ensure that the Hospital Pharmacy is attuned to the needs and aligned to the initiatives of these units;
- (g) Inform the Company of the PHIC and other third party payors' or insurance companies' status of patients, their drug payment allowance, and receipt of drug reimbursements;
- (h) Assist the Company in securing permits for utilities;
- (i) Require doctors employed by NSPH to give first preference to the Hospital Pharmacy when prescribing Pharmaceutical and Non-Pharmaceutical Products;
- (j) Monitor prescribing patterns of doctors employed by NSPH to ensure they prescribe only Pharmaceutical Products listed in the NSTL and included by the Therapeutics Committee of the NSPH;
- (k) Orient NSPH staff on the Pharmacy Manager's operating systems, regulations, policies and processes especially those that interrelate with pharmacy operations and those affecting or regulating drug dispensing procedures;
- (l) Provide the Pharmacy Manager with the NSTL and the respective Pharmaceutical Products and Non-Pharmaceutical Products of the NSPH;
- (m) Grant exclusive rights to sell Pharmaceutical Products and Non-Pharmaceutical Products listed in the NSTL within the NSPH to the Pharmacy Manager.

7.3 Contract Performance Standards

The Company shall operate and manage the Hospital Pharmacy in a manner that shall at all times meet or exceed the Contract Performance Standards as referred to in Schedule F. If the Company fails to operate and manage the Hospital Pharmacy in line with the CPS set in this Agreement, PGNS shall impose a penalty provided for in Schedule F and enforce payment by offsetting payments due to the Company representing the Company's revenue share or through the Performance Security if the Company is unable to pay the penalty when due.

7.4 Quality Assessment

The Company shall implement a quality assessment and monitoring system which meets the requirements of Prudent Utility Practice to ensure that the Pharmaceutical Products and Non-

Pharmaceutical Products sold and dispensed at Hospital Pharmacy are available; and that the Hospital Pharmacy is operated and managed in a way that satisfies or exceeds all CPS.

8 WARRANTIES

8.1 Specific Warranties

In the operation and management of the Hospital Pharmacy, the Company specifically warrants that:

- (a) All Pharmaceutical Products and Non-Pharmaceutical Products to be supplied, sold and dispensed by the Company are registered with the appropriate regulatory agency, of good quality, genuine, not expired, included in the Philippine National Drug Formulary and carry the necessary warranties from their manufacturers.
- (b) The Pharmaceutical Products and Non-Pharmaceutical Products listed in the NSTL to be supplied, sold and dispensed by the Company shall be in sufficient quantities, and shall at all times be available twenty four (24) hours a day, seven (7) days a week.
- (c) The Pharmaceutical Products and Non-Pharmaceutical Products sold and dispensed therewith, shall be fit for the purpose for which they are provided.
- (d) The Company's management and personnel assigned to perform services under this Agreement are qualified, diligent, and morally fit to perform all the services required in this Agreement to the satisfaction of PGNS, and that each of them shall have the proper skill, training and background to perform the services to which they are assigned in a competent, efficient and professional manner.
- (e) The Company will promptly respond to all service requests coursed through the agreed problem determination, problem analysis and warranty service request procedures established by the Company and accepted by PGNS.

8.2 Failures Not Applicable to Warranties

In this Agreement, the warranties do not apply if failures are due to:

- (a) an Event of Loss or other accidental damage or loss;
- (b) a Force Majeure Event;
- (c) PGNS Event of Default; or
- (d) misuse or other acts committed by PGNS that void an applicable warranty or warranties.

9 RENT AND REVENUE SHARE

9.1 Monthly Rent

The Company shall pay a monthly rent of P300.00 per square meter for the Leased Premises, or a total of P7,500 per month, net of all taxes which shall be for the account of the Company.

The monthly rent shall increase by 5% yearly starting on the second year of the Effectivity Date until Contract Termination.

9.2 Revenue Share

The Company shall also be entitled to a five percent (5.5%) share in the monthly Net Sales derived by the Company from the Hospital Pharmacy.

9.3 Invoices

Within seven (7) days after the end of each Billing Month, PGNS shall submit to the Company an invoice (each, a ***“PGNS Invoice”***) showing the monthly rent under Section 9.1 and revenue share under Section 9.2 payable from the Company to PGNS for such Billing Month.

Within seven (7) days after the end of each Billing Month, the Company shall submit to PGNS an invoice (each, a ***“Company Invoice”***) showing the Net Sales to patients covered under Section 7.2.a and 7.2.b of this Agreement.

The Company shall institute a process that is compliant with the relevant laws to ensure that there is proper identification and documentation in the grant of legally mandated discounts like senior citizen's discounts.

9.45 Payment

Each of the Parties shall pay the Invoice amount due to the other Party within thirty (30) Business Days from the date of receipt thereof. If the last day for payment is not a Business Day, then payment shall be made on the next Business Day.

9.56 Manner of Payment

All sums payable by PGNS under this Agreement shall be paid in Pesos and remitted in same-day funds on the due date to an account maintained in a bank doing business in Catarman, Northern Samar to be specified in writing by the Company to PGNS.

9.67 Value-added Tax

Any value-added tax on the sale of Pharmaceutical Products and Non-Pharmaceutical Products, if applicable, shall be passed on by the Company to PGNS and shall be separately stated in the Company Invoices.

9.78 No Set-Off or Deductions

All payments made by PGNS under this Agreement shall be made free and clear of and without deduction for or on account of any setoff, counterclaim, Taxes, or otherwise, except those particularly allowed under the Civil Code of the Philippines or deductions required by Legal Requirements.

9.89 Penalty for Late Payment

Any amount due which is not paid by PGNS or received by the Company within the period indicated in this Section 9 shall bear interest at the Penalty Rate from the due date until payment is received by the Company.

9.10 Disputed Invoices

- (a) If either Party disputes an amount or a computation in an Invoice, such Party shall: (i) send a written notice to the other Party informing it of such fact and detailing the basis for the dispute; and (ii) pay the undisputed portion not later than its due date.
- (b) The Parties shall endeavor to settle the billing dispute within thirty (30) Days after receipt of such notice following the steps for the settlement of disputes provided in Section 20. The amount disputed shall bear interest at the Penalty Rate from the original due date until payment is received.

10 CONTRACT MANAGEMENT, MONITORING AND EVALUATION

10.1 Contract Management Body

Within five (5) Business Days after the Signature Date, each Party shall form a contract management body, either through the appointment of a contract manager or the creation of a contract management unit, which shall be responsible for monitoring, managing and evaluating the operation and management of the Hospital Pharmacy (**"Contract Management Body"**). Within two (2) Business Days from its creation, each Party shall immediately send written notice to the other naming the members of its Contract Management Body.

10.2 Project Reports

- (a) Within fifteen (15) Business Days from receipt of the notice referred to in Section 10.1, the Contract Management Bodies of the Parties shall meet and agree on the form of the report which the Parties shall use as a tool to exchange information and to monitor, manage and evaluate the implementation of the Agreement (**"Project Report"**). At the same meeting, the Parties shall also agree on:
 - (i) the method for monitoring and obtaining the information required;
 - (ii) the Party responsible for monitoring and reporting on each of the indicators; and
 - (iii) the frequency that each indicator should be monitored and reported.
- (b) The Parties shall ensure that the Project Report will have the following basic information:
 - (i) the Performance Standards to determine the Company's compliance with its obligations under the Agreement;
 - (ii) relevant performance indicators to determine PGNS' compliance with its obligations under the Agreement;
 - (iii) the Selling Price of the Pharmaceutical Products and Non-Pharmaceutical Products measured against the price at which the same product is sold in the three leading drug stores and pharmacies in Catarman, Northern Samar;
 - (iv) any information required by relevant Government Authorities including government oversight agencies and public regulators in accordance with applicable Legal Requirements;
 - (v) significant contract management actions taken by each Party;
 - (vi) any event or condition that has occurred which materially affects the a Party's ability to comply with its obligations under the Agreement or if any of the representations made or warranties given by a Party ceases to be true in any material respect; and
 - (vii) all other material information that may be included by the Parties.

10.3 Monitoring and Reporting Obligations

- (a) The Parties shall comply with their monitoring and reporting obligations mutually agreed upon pursuant to this Section 10 and embodied in the Project Report.
- (b) For this purpose, the Company shall establish appropriate monitoring and reporting systems to obtain data and perform calculations in order to measure compliance with the Performance Standards (PS) provided in this Agreement and the Project Report.
- (c) Performance of the Hospital Pharmacy and compliance with the PS shall be measured on a monthly basis. The Company shall gather the results and make them available to the Contract Management Bodies.
- (d) The Project Reports shall be prepared in English and shall be submitted within seven (7) Business Days after the end of the calendar month to which they apply. Source data applicable to a Project Report shall be retained by the Parties for a period of at least sixty (60) months after the report is submitted and shall be furnished to the other Party upon demand. All reports and source data for purposes of validation shall also be stored electronically by the Parties.
- (e) Where a Project Report shows that the operation of the Hospital Pharmacy is below the PS, the Company shall also separately submit with the report: (i) a full explanation of the reasons for the below-target performance; (ii) the steps that it has or will be taking to ensure that performance is improved to meet the standard; and (iii) the timeframe for their implementation. In case the cause of the below-target performance is not entirely the responsibility of the Company, it shall include a recommended solution in its report that identifies the proposed steps to remedy the other factors that contributed to the below-target performance.
- (f) At the request of PGNS, the Company shall prepare and submit supplemental reports related to the performance of the Hospital Pharmacy or compliance with the PS.

10.4 Financial Reports

10.4.1 Fiscal Year; Accounting Principles

The Company shall have a fiscal year ending on December 31 of each year. The Company shall at all times comply with the Accounting Principles and maintain proper books and records in accordance with applicable Legal Requirements.

10.4.2 Financial Reports

- (a) The Company shall keep accurate records of all receipts and expenses related to the operation of the Hospital Pharmacy.
- (b) It shall prepare unaudited quarterly financial statements for the Hospital Pharmacy in accordance with the Accounting Principles consistently applied. The quarterly unaudited financial statements shall be duly signed by the Company's chief accountant and shall be submitted to PGNS within thirty (30) Business Days after the end of each quarter for the duration of the Operating Period.

- (c) The Company shall prepare audited annual financial statements for the Hospital Pharmacy in accordance with the Accounting Principles consistently applied. The annual financial statements shall be audited by the Auditors. Within one hundred twenty (120) Business Days after the end of each fiscal year for the duration of the Operating Period (including the fiscal year in which the Termination Date occurs), the Company shall submit to PGNS an annual report on the management, operations, and finance during the preceding year, including copies of the audited financial statements with the Auditors' notes and comments.
- (d) In addition to the foregoing reports, the Company shall provide PGNS at its request and on a timely basis all financial information in respect of the Company's operations reasonably required to permit PGNS to satisfy its financial, tax, and other reporting requirements.

10.5 Other Reporting Requirements for Public Audit

The Company acknowledges that PGNS is subject to public audit by the Commission on Audit ("COA"). For this purpose, the Company shall provide on a timely basis pertinent information as may be requested by PGNS or COA for purposes of such audit.

10.6 Regular Meetings

The Contract Management Bodies of the Parties shall meet once a month or more frequently if necessary to discuss the progress of the Project, in particular:

- (a) the PS and other material information covered by the Project Report;
- (b) any problems or issues in the implementation of the Agreement and preventive or remedial actions that should be taken;
- (c) methods for managing significant risks; and
- (d) lessons learned from carrying out the Project and any adjustments that are necessary or can be made in its implementation to help improve Project outcomes.

10.7 Right to Inspect and Monitor

- (a) PGNS shall be entitled to inspect and monitor the Hospital Pharmacy at any time. The purpose of such monitoring shall be to determine whether the Hospital Pharmacy is being operated and managed in accordance with the terms of this Agreement.
- (b) The Company shall allow PGNS or their duly authorized representatives to conduct such inspection and monitoring during normal business hours upon reasonable prior written notice to the Company. The monitoring and review shall be conducted in the presence of a duly designated representative of the Company. All costs incurred by PGNS in exercising its monitoring rights pursuant to this Section shall be borne solely by PGNS.
- (c) The Parties shall use all reasonable efforts to minimize any disruption to the operation of the Hospital Pharmacy during inspection.

- (d) The Company shall ensure that PGNS or its agent or representative is given sufficient access to any part of the Hospital Pharmacy to carry out the inspection. For this purpose, the Company shall:
 - (i) provide assistance and make available equipment or materials as may be reasonably required;
 - (ii) not make any part of the Hospital Pharmacy inaccessible; and
 - (iii) promptly correct any deficiency identified by PGNS or its agent during such inspection.

11 INSURANCE

11.1 Required Insurance Policies

- (a) The Company at its cost shall obtain and maintain or cause its subcontractors to obtain, at a minimum, all-risks insurance coverage and policies for the Leased Premises, equipment and inventory of Pharmaceutical Products and Non-Pharmaceutical Products to cover the full replacement costs. The Company may procure additional insurance coverage not called for under this Agreement.
- (b) The insurance policies required to be obtained by the Company shall be issued by reputable and financially sound insurers or reinsurers duly licensed by the Insurance Commission and reasonably acceptable to PGNS.

11.2 Insurance Certificates

The Company shall provide PGNS with true and certified copies of insurance policies or certificates of coverage required to be obtained in accordance with this Agreement within ten (10) Days after the date such insurance policies are obtained or renewed.

11.3 Failure to Secure and Maintain Required Insurance

If the Company fails to obtain or maintain any insurance policy or endorsement required by this Agreement, PGNS shall have the right but not the obligation to procure such insurance policy or endorsement at the Company's expense. If the Company fails to reimburse PGNS within seven (7) Days after being notified of PGNS's payment of any insurance premium to obtain the needed insurance cover, PGNS can enforce reimbursement from the Performance Security in effect at that time. If the Performance Security is insufficient, PGNS shall deduct the cost of insurance from any amount due and payable by PGNS to the Company under this Agreement.

11.4 Application of Insurance Proceeds

If all or a portion of the Hospital Pharmacy is damaged, destroyed, or rendered unfit for normal operation, the Company shall apply the insurance proceeds (except the proceeds of business interruption insurance) in accordance with the following provisions:

- (a) If the Company determines that the Hospital Pharmacy can be rebuilt, repaired, and restored to permit operation on a commercially viable basis and the insurance proceeds are sufficient to restore such Hospital Pharmacy, then all the proceeds shall be applied toward the cost of rebuilding, repairing, and/or restoring the Hospital Pharmacy.

- (b) If the Company determines that the Hospital Pharmacy cannot be rebuilt or can only be partially rebuilt, repaired, and restored or that the insurance proceeds are insufficient to restore such Hospital Pharmacy, then either Party may elect to terminate this Agreement in accordance with Section 21.2.3 (*Termination by Either Party*) and all of the insurance proceeds shall be distributed in the following order of priority:
 - (i) to the payment of any amount that may be due PGNS under this Agreement; then,
 - (ii) any remaining amount from such proceeds shall be given to the Company or its successors or assigns or to whomever may be lawfully entitled to receive it.

12 REPRESENTATIONS AND CERTIFICATIONS

Each Party represents and certifies to the other Party that as of the Signature Date and the Effective Date:

12.1 Corporate Existence and Authority

It is a juridical person duly organized and validly existing under the laws of the Philippines and it has all requisite legal power and authority to conduct its business, to own its properties, and to execute, deliver and implement this Agreement.

12.2 Government Consents and Approvals

All Consents required to authorize the execution, delivery, and performance of this Agreement have been obtained and are in full force and effect except for those Consents and approvals identified in Schedule G (*Consents*) that the Parties have agreed to obtain at a later time.

12.3 Non-contravention of Legal Requirements

The execution, delivery, and performance of this Agreement do not conflict with any Legal Requirements applicable to such Party.

12.4 Validity and Enforceability of Agreement

This Agreement constitutes its legal, valid, and binding obligation, enforceable in accordance with its terms, except to the extent that its enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or other similar laws affecting creditors' rights generally.

12.5 No Adverse Litigation

There is no litigation, arbitration, investigation or proceeding pending, or to its best knowledge, threatened, against or affecting such Party that could reasonably be expected to materially adversely affect its ability to fulfill its obligations under this Agreement or that may affect the legality, validity, or enforceability of this Agreement.

12.6 Due Authorization & Non-contravention of Other Agreements

The execution, delivery, and performance of this Agreement have been duly authorized by all requisite corporate action, and will not: (i) require any further consent or approval of its board of directors, shareholders, or any other third party, other than those that have been obtained, or (ii) violate its charter or incorporation documents, or other agreement or instrument to which it is a party or by which it or its property may be bound, or violate any law, judgment, order, writ, injunction, determination, or award presently in effect and applicable to it.

12.7 Continuing Representations and Warranties

The representations and warranties in Sections 12.1 to 12.6 shall be deemed to be repeated by each Party as of the Effective Date and as of December 31 of each Contract Year. Each Party shall immediately notify the other Party in writing if any of the representations and warranties given under Sections 12.1 to 12.6 ceases to be true in any material respect.

13 COMPANY COVENANTS

13.1 Conduct of Company

The Company shall exercise complete control over its employees, contractors and subcontractors and require them to comply with this Agreement, all Legal Requirements, and all applicable policies of the Company. The Company shall also require its employees, contractors and subcontractors to conform to the highest standards of professionalism and ethical conduct. To the extent permitted by applicable Legal Requirements, the Company shall dismiss or discipline any of its employees, contractors or subcontractors who do not conform to such standards and shall take immediate action at its own expense to correct any violations of such standards.

13.2 Compliance with Legal Requirements and Consents

The Company shall comply with applicable Legal Requirements and shall comply in all material respects and shall keep in full force and effect all Consents required to be in its name for the performance of its obligations under this Agreement.

13.34 Company's Employees

13.43.1 Employment of Local Residents

The Company shall give first preference and priority to hiring any qualified employee of the NSPH that may be affected by virtue of this Project. In the selection and hiring of its employees, the Company shall likewise give priority to qualified applicants who are residents of the Province of Northern Samar. The Company shall cause its subcontractors to do the same.

13.34.2 Status of Company's Employees upon Termination of Agreement

PGNS shall have no obligation to employ or hire any employees of the Company upon the termination of this Agreement. The Company shall be liable for all costs and expenses associated with the termination of the employment or contract of the Company's employees.

13.34.3 Education and Training

The Company shall implement education and training programs designed to upgrade the skills of its employees to a level or standard that meets or exceeds the requirements of Prudent Utility Practice.

13.45 Anti-Corruption Warranty

The Company warrants that neither it nor its representatives have offered any officer, official or employee of any Government Authority any consideration or commission for this Agreement nor has it or its representatives exerted or utilized any corrupt practice or unlawful influence to secure or solicit this Agreement for any consideration or commission. The Company shall not subcontract any portion or portions of its obligations under this Agreement to any public officer or PGNS official or employee or to persons known by the Company to be relatives within the third degree of consanguinity or affinity of any public officer or PGNS official or employee directly or indirectly involved in the award of this Agreement or the implementation of the Project. If any consideration or commission is paid to any private person, the Company shall disclose the name of the person and the amount paid. Any breach of the warranties and undertakings in this Section 13.5 shall constitute sufficient ground for the rescission or cancellation of this Agreement or the deduction of the consideration or commission paid from payments otherwise owed to the Company under this Agreement, without prejudice to the filing of civil or criminal actions against the Company and/or its representatives and officials and employees of PGNS under the Anti-Graft and Corrupt Practices Act and other applicable laws.

13.56 Transactions with Affiliates of Company

Any contract or other transaction entered into by the Company with any of its Affiliates in connection with the Project, whether for the purchase of goods or services or otherwise, shall be entered into on an arms length basis and on commercial terms that would reasonably be expected to apply in the open market between contracting parties that are not Affiliates. Without limiting the generality of the foregoing, in no event shall the Company, directly or indirectly, pay more than the fair market value for goods or services supplied to it by its Affiliates.

14 FORCE MAJEURE

14.1 Force Majeure Events

14.1.1 Definition of Force Majeure Event

A “**Force Majeure Event**” means any event, condition, or circumstance and the effects thereof not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that:

- (a) such event, condition, or circumstance is not the direct or indirect result of the breach by such Party of any of its obligations under this Agreement or the fault or negligence of such Party, its Affiliates, or any person under the Party’s or its Affiliates’ reasonable control;
- (b) despite the exercise of reasonable diligence, such event, condition, or circumstance cannot be prevented, avoided, or removed by such Party;

- (c) such event, condition, or circumstance has a material adverse effect on the ability of such Party to perform all or a material portion of any of its obligations under this Agreement, and such Party has taken all reasonable precautions, due care, and alternative measures in order to avoid or mitigate the effects of such event on such Party's ability to perform its obligations under this Agreement; and
- (d) such Party has given the other Party notice in accordance with Section 14.2.1 (*Notice of Force Majeure Event*).

14.1.2 Political Force Majeure Event

Subject to Section 14.1.1 (*Definition of Force Majeure Event*), Force Majeure Events may include any of the following (each, a "**Political Force Majeure Event**"): war (declared or not); hostilities or belligerence; blockade; revolution or insurrection; riot or public disorder; Change-in-Law, expropriation, requisition, confiscation, or nationalization; export or import restrictions other than any in effect as of the Signature Date; closing of harbors, docks, canals, or other assistance to or adjuncts of the shipping or navigation of or within any place; rationing or allocation, whether imposed by law, decree, or regulation by, or by compliance of industry at the insistence of, any Government Authority.

14.1.3 Non-Political Force Majeure Event

Subject to Section 14.1.1 (*Definition of Force Majeure Event*), Force Majeure Events may include any of the following (each, a "**Non-Political Force Majeure Event**"): fire; unusual flood or drought; earthquake, volcano, storm, lightning, tide (other than normal tides), tidal wave, unusually severe weather conditions; perils of the sea; accidents of navigation or breakdown or injury of vessels; accidents to harbors, docks, canals, or other assistance to or adjuncts of the shipping or navigation; epidemic or quarantine; strikes or combination of workmen, lockouts, or other labor disturbances (other than those solely affecting the Party claiming the same as a Force Majeure Event); or any other cause similar to the foregoing that meets the requirements of Section 14.1.1

14.2 Responsibilities of the Parties during Force Majeure Event

14.2.1 Notice of Force Majeure Event

The Party seeking to be excused from any delay in the performance of its obligations (other than the payment of money) under Section 14 of this Agreement shall advise the other Party in writing of the date of commencement of such Force Majeure Event, the nature and expected duration thereof, and the actions to be taken to try to prevent or reduce the effects of such event. The notice shall be sent by such Party not later than ten (10) Days after the date on which such Party first gains knowledge of such Force Majeure Event. If it fails to deliver such notice in accordance with this provision, such Party shall not be entitled to invoke the benefits of this section.

14.2.2 Mitigation

Each Party shall exert all reasonable efforts in accordance with Prudent Utility Practice or other applicable standard to prevent or mitigate the consequences of the Force Majeure Event on the performance of its obligations under this Agreement. The Parties shall consult with each other in good faith and shall use all reasonable endeavors to agree on appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued implementation of the

Project. The Parties shall exert all reasonable efforts to resume the performance of their obligations as soon as practicable following the declaration of a Force Majeure Event.

14.2.3 Additional Information about Force Majeure Event

Within three (3) Days following the termination of any Force Majeure Event, the Party having invoked such Force Majeure Event as a cause for the failure or delay in the performance of any obligation under this Agreement (other than the payment of money) shall submit to the other Party reasonable proof of the cause and nature of such delay and its effect upon the performance of the obligations of such Party under this Agreement.

14.3 Effect of Force Majeure Events

14.3.1 Delayed Performance Excused

The affected Party shall be excused from performance and shall not be in default of any obligation under this Agreement for so long as its failure to perform such obligation is due to a Force Majeure Event, provided that:

- (a) The affected Party makes continuous diligent efforts to prevent or mitigate the effects of the Force Majeure Event;
- (b) If it is a proximate cause of the Political Force Majeure Event, PGNS shall not be entitled to the benefit of this Section 14.3.1 in case of Political Force Majeure Events;
- (c) The Party claiming a Force Majeure Event shall not be entitled to suspend performance or be excused for delayed performance under this Agreement for any greater scope or longer duration than is required by the Force Majeure Event or the delay occasioned thereby, and there shall be no presumption that a Party is entitled to or limited by a day-for-day extension of time equal to the period of the Force Majeure Event;
- (d) Neither Party shall be relieved of or excused from its obligations under this Agreement solely because there may be increased costs or other adverse economic consequences incurred through the performance of such obligations; and
- (e) The provisions of this Section 14.3.1 shall not excuse:
 - (i) Late payment of existing obligations;
 - (ii) Late performance by either Party due to such Party's fault or negligence; or
 - (iii) Delays resulting from an event, condition, or circumstance which is reasonably foreseeable such as but not limited to (A) weather conditions that are no more severe than any weather condition reported in or predictable from weather data for the period of fifty (50) years prior to the date of this Agreement or (B) unsuitable ground conditions (other than earthquakes or other geologic calamities).

15 INDEMNITY

15.1 Indemnification by the Company

The Company shall indemnify, defend, and hold harmless PGNS, its directors, officers, employees, and representatives, its Affiliates, agents, advisors, contractors, or licensees and their respective directors, officers, and employees (the “**PGNS Parties**”), from and against all Claims asserted against PGNS or any PGNS Party by any third party as a result of the following:

- (a) For any loss of or damage to property or death or injury to persons resulting from any negligent act or omission of the Company or any Company Parties that results from the performance of this Agreement;
- (b) Failure of the Company to comply with any Legal Requirement in the performance of its obligations under this Agreement;
- (c) Failure of the Company to comply with its representations and certifications under Section 12 of this Agreement; or
- (d) Failure of the Company to comply with its covenants under Section 13 of this Agreement.

The Company shall not be obliged to indemnify PGNS to the extent that any of the matters referred to in paragraphs (a) to (d) above is caused by the negligence, misconduct, or breach of this Agreement by PGNS or any PGNS Parties or arises as a direct and proximate result of the Company acting upon the instruction of PGNS.

15.2 Indemnification by PGNS

PGNS shall indemnify, defend, and hold harmless the Company, its shareholders, directors, officers, employees, and representatives, its Affiliates, agents, contractors, or licensees and their respective directors, officers, and employees (the “**Company Parties**”), from and against all Claims asserted against the Company or any Company Parties for any loss of or damage to property or death or injury to persons resulting from any negligent act or omission of PGNS or any PGNS Parties that results from the performance of this Agreement by PGNS, except to the extent such loss, damage, injury, or death is attributable to the negligence, misconduct, or breach of this Agreement by the Company or any Company Parties.

15.3 Indemnification Procedures

15.3.1 Notice of Claim

Each Party shall provide the other Party with written notice of any matter constituting or that may lead to a Claim under this Agreement which may give rise to a request for indemnification under this Section 15 as soon as such Party becomes aware of the potential Claim.

15.3.2 Defense of Claim

- (a) The indemnifying Party may, at its option and at its expense, control the contest and defense of any claim with respect to which it is or may be obligated to indemnify the indemnified Party under this Agreement and with respect to which it or the indemnified Party is named as a party.

- (b) If the indemnified Party is also named as a party to any such proceeding, the indemnified Party shall have the right to retain its own counsel at its own expense. Except when the interests of the Parties with respect to such Claim are adverse, the indemnifying Party shall (i) keep the indemnified Party and its counsel reasonably informed as to the progress of such contest and defense, (ii) to the extent reasonably practicable give the indemnified Party and its counsel the opportunity to review and comment in advance on all written submissions and filings relevant to the Claim, and (iii) consider in good faith any reasonable suggestions made by the indemnified Party or its counsel or permit the indemnified Party and its counsel to submit documentation or attend those portions of any meetings and proceedings that relate to the Claim.

15.3.3 Payment of Claim

The indemnifying Party shall pay the indemnified Party within thirty (30) Days after notice to the indemnifying Party of the actual payment of a Claim by the indemnified Party.

16 EVENTS OF DEFAULT

16.1 Company Events of Default

The occurrence of any of the following events shall constitute a ***“Company Event of Default”***:

- (a) The Company fails to perform any of its obligations under this Agreement (other than a failure that constitutes a Company Event of Default under any other clause of this Section 16.1) which materially and adversely affects the availability of the Pharmaceutical Products listed in the NSTL, or the Non-Pharmaceutical Products, or operations of the Hospital Pharmacy.
- (b) The Company (i) becomes voluntarily or involuntarily the subject of rehabilitation, receivership, or suspension of payment proceedings under any bankruptcy or insolvency law or other law or procedure for the relief of financially distressed debtors; (ii) does not, is unable, or admits in writing its inability to pay its debts when due or as they mature; or (iii) becomes insolvent, takes or suffers any action for its liquidation or dissolution, or has a receiver or liquidator appointed for all or any substantial part of its assets and, in the event any such occurrence is involuntary, it results in the entry of an order for relief or the adjudication of the Company or any such guarantor of the Company as bankrupt or insolvent and it remains undismissed or undischarged for a period of thirty (30) Days.
- (c) The Company, or its contractors or agents, abandons the lease, operation and management of the Hospital Pharmacy for more than ten (10) Days within any period of fifteen (15) consecutive Days.
- (d) The Company ceases to provide all or a substantial part of the Pharmaceutical Products listed in the NSTL or the Non-Pharmaceutical Products in accordance with this Agreement for more than ten (10) Days within any period of fifteen (15) consecutive Days.
- (e) The Company defaults in the payment of any amount due and payable (which amounts are not in dispute) under this Agreement and such default continues unremedied for a period of thirty (30) Days from receipt by the Company of a notice in writing from PGNS of the amount due and payable.

- (f) The Company breaches any provision of Section 13.5 (*Anti-Corruption Warranty*).
- (g) The Company assigns or transfers any of its rights or obligations under this Agreement, except as permitted by this Agreement.
- (h) The Performance Security originally provided pursuant to Section 6.2 or any replacement Performance Security has been fully drawn and the Company has failed to procure within twenty-one (21) Days thereafter a replacement Performance Security and otherwise satisfying the requirements of Section 6.2.

16.2 PGNS Events of Default

The occurrence of any of the following events shall constitute an “**PGNS Event of Default**”:

- (a) PGNS defaults in the payment of any amount due and payable (which amounts are not in dispute) under this Agreement and such default continues unremedied for a period of thirty (30) Days from receipt by PGNS of a notice in writing from the Company of the amount due and payable.
- (b) PGNS fails to perform any of its material obligations under this Agreement which renders it impossible for the Company to perform its own obligations under this Agreement for a continuous period of thirty (30) Days.
- (c) There is an expropriation, sequestration or requisition of a material part of the Project assets and/or shares of the Company by PGNS or other Government Authority.
- (d) There is a breach by PGNS of Section 19 (*No Assignment*).

17 LIMITATION OF LIABILITY

17.1 Limitation of Consequential Damages; Other Rights, Remedies, etc.

Neither Party shall be liable to the other Party whether in contract, tort, negligence, warranty, strict liability, breach of a statutory duty, or otherwise for (i) any special, consequential, moral, or punitive damages, (ii) indirect losses, costs, or expenses, or (iii) loss of actual or anticipated profits, loss of opportunities (including opportunities to enter into arrangements with third parties), or loss of use or production.

18 PGNS STEP-IN RIGHTS

18.1 Step-in Rights

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- (a) PGNS shall have the option to assume operational responsibility for the Hospital Pharmacy (in the capacity of an operator only) in order to continue operation of the Hospital Pharmacy or complete any necessary repairs to assure continued operations (“**PGNS Step-in Rights**”). PGNS Step-in Rights shall arise only upon the occurrence and continuance of a Company Event of Default that could reasonably be expected to materially adversely affect the Company’s ability to operate and maintain the Hospital Pharmacy in accordance with this Agreement.
- (b) PGNS shall notify the Company in writing of the following:

- (i) its intention to exercise PGNS Step-in Rights
 - (ii) the reason for its exercise of PGNS Step-in Rights; and
 - (iii) the date it will commence exercise of PGNS Step-in Rights.
- (c) PGNS may only exercise PGNS Step-in Rights if any applicable cure period specified in Section 16 (*Events of Default*) and Section 21 (*Termination*) has expired.
 - (d) During the period of PGNS's exercise of PGNS Step-in Rights, PGNS shall be the operator of the Hospital Pharmacy. The Company's obligation to operate the Hospital Pharmacy shall be suspended, but PGNS shall retain the right to terminate the Agreement due to a Company Event of Default. The exercise of PGNS Step-in Rights shall not be deemed as or result in a transfer of the Company's obligations to operate the Hospital Pharmacy.

18.2 Implementation of PGNS Step-in Rights

18.2.1 Company's Contracts, Consents, etc.

- (a) Within three (3) Days of the Company's receipt of PGNS's notice of its exercise of PGNS Step-in Rights, the Company shall assign to PGNS the Company's rights under all agreements necessary to operate the Hospital Pharmacy, provided that such assignment shall automatically cease upon the reversion of operation responsibility to the Company.
- (b) The Company shall promptly take all steps necessary to permit PGNS to sell and dispense the existing inventory of Pharmaceutical Products and Non-Pharmaceutical Products on stock at the Hospital Pharmacy and to operate the Hospital Pharmacy. The Company shall assign all its rights under all Consents to the extent such rights are necessary for PGNS to operate the Hospital Pharmacy during PGNS's exercise of PGNS Step-in Rights. The Company shall make an inventory of Pharmaceutical Products and Non-Pharmaceutical Products on stock at the Hospital Pharmacy and consign the same to PGNS or appoint PGNS as its agent in order to allow PGNS to sell and dispense the same in accordance with the Company's established procedures. The Company shall give PGNS access to all operation manuals and other documentation.

18.2.2 Payments to Company and PGNS

- (a) During any period in which PGNS exercises PGNS Step-in Rights, PGNS shall continue making payments to the Company in accordance with the terms of this Agreement.
- (b) During the exercise of PGNS Step-in Rights, the Company shall pay PGNS reasonable and justified mobilization costs.

18.2.3 Payment of Company's Obligations

- (a) PGNS shall have the right to make any payments due from and on behalf of the Company which are necessary to operate the Hospital Pharmacy, including payments for the Pharmaceutical Products and Non-Pharmaceutical Products, materials, supplies, utilities, fuel, maintenance, repairs, insurance, taxes, and other operating costs of the Hospital Pharmacy.

- (b) The Parties shall cooperate with each other and shall execute and deliver all documents necessary or desirable and undertake all actions necessary to make those payments in a timely and proper manner. The remuneration and payments referred to in Section 18.2.2(b) and Section 18.2.3(a) that become payable during this period shall be regarded as funds advanced by PGNS to the Company. PGNS shall send invoices for such amounts and the Company shall promptly reimburse PGNS. The Parties shall resolve disputed amounts on the same terms and conditions as the settlement of disputed invoices provided in Section 9.9 (*Disputed Invoices*). Notwithstanding the provisions of Section 9.7, PGNS may obtain payment by making deductions from any amounts due to the Company pursuant to this Agreement.

18.2.4 Standards of Operation

During any period when PGNS is operating the Hospital Pharmacy, PGNS shall operate and maintain the Hospital Pharmacy in accordance with Prudent Utility Practice. The Company shall have the right to monitor PGNS' operation of the Hospital Pharmacy to the extent reasonably required to ascertain whether PGNS is operating and maintaining the Hospital Pharmacy in accordance with that standard. PGNS shall have no more liability to the Company than would a third party operation and maintenance contractor with respect to the operation and maintenance of the Hospital Pharmacy by PGNS during the exercise of such step-in rights.

18.2.5 Reversion of Operational Responsibility to Company

PGNS shall return operational responsibility for the Hospital Pharmacy to the Company following any exercise by PGNS of PGNS Step-in Rights (i) reasonably promptly following the cure of the Company Event of Default that led to the exercise of PGNS Step-in Rights, or (ii) at the sole discretion of PGNS, after fifteen (15) Days' prior written notice to the Company stating that PGNS will return operational responsibility over the Hospital Pharmacy back to the Company. PGNS shall return the Hospital Pharmacy to the Company in a physical condition no worse than the condition of the Hospital Pharmacy at the time PGNS assumed operational responsibility for the Hospital Pharmacy pursuant to such exercise of PGNS Step-in Rights, ordinary wear and tear excepted. PGNS shall not be responsible for or have any liability resulting from any condition of the Hospital Pharmacy or the Site that existed prior to such exercise of PGNS Step-in Rights.

19 ASSIGNMENT OF RIGHTS

Neither Party may sell, assign, or transfer its rights or obligations under or pursuant to this Agreement without the prior written consent of the other Party.

20 DISPUTE RESOLUTION

20.1 Mutual Discussions

In case any Dispute occurs, the Parties shall attempt in good faith to settle such Dispute by mutual discussions between them held at the principal office of PGNS and beginning not later than five (5) Days after the receipt by one Party of a written notice from the other Party of the existence of the Dispute.

20.2 Expert Proceedings

20.2.1 Referral of Disputes to Expert Panel

If a Dispute cannot be settled by mutual discussion within thirty (30) Days or such longer period as may be agreed in writing by the Parties after the commencement of such discussions under Section 20.1, the Dispute shall be referred to the Expert Panel for determination.

20.2.2 Establishment and Operation of Expert Panel

- (a) The Parties will agree on the panel of three (3) experts selected from the persons nominated by the Parties. The Expert Panel shall be constituted and called upon only when required within thirty (30) Days from receipt of a Party of the written notice of the other Party's decision to refer a matter to the Expert Panel. If the Parties are unable to agree on the composition of the Expert Panel within such thirty (30)-Day period, then either Party may request the Department of Health to appoint an expert.
- (b) Decisions of the Expert Panel shall be made by simple majority vote of the members. The members of the Expert Panel shall develop their own internal conduct and procedural rules based upon principles of transparency, impartiality, and efficiency. Proceedings of the Expert Panel shall not be required to follow the procedural laws related to arbitrations. The Expert Panel need not be bound by strict rules of law where it considers the application thereof to particular matters to be inconsistent with the spirit of this Agreement and the underlying intent of the Parties.
- (c) All costs incurred in connection with the convening of the Expert Panel and the referral and resolution of a Dispute before it, including reasonable compensation of the members of the Expert Panel, shall be equally shared by the Parties.

20.2.3 Decisions of Expert Panel

Except as otherwise expressly provided in this Agreement, all decisions of the Expert Panel shall be made within thirty (30) Days after the receipt by the Expert Panel of a request from either Party for a decision pursuant to this Agreement, or by such later date as may be agreed by the Parties.

20.3 Arbitration

If a Dispute cannot be settled by mutual discussion within thirty (30) Days after the commencement of such discussions under Section 20.1 and either:

- (a) The Parties agree in writing to refer the Dispute to arbitration rather than to the Expert Panel, or
- (b) There was fraud or manifest error in connection with the decision of the Expert Panel, then either Party may submit such Dispute to arbitration in the Philippines in accordance with the Philippine Arbitration Law. The arbitration proceedings shall be conducted in the English language. The Parties agree that the arbitrators may apply equitable principles if they consider their application to particular matters to be consistent with the spirit of this Agreement and the underlying intent of the Parties.

20.4 Expert Panel and Arbitral Award

All Expert Panel and arbitral awards shall be in writing and shall state the reasons upon which they are based. The awards shall be final and binding on the Parties. The awards may include an award of costs, including reasonable attorney's fees and disbursements. Judgments upon the

awards may be entered by any court having jurisdiction thereof or having jurisdiction over the Parties or their assets.

20.5 Enforcement of Award

By execution and delivery of this Agreement each Party hereby accepts and consents to the jurisdiction of the Expert Panel and arbitral panel and, solely for purposes of the enforcement of an Expert Panel or arbitral award under this Section 20, to the jurisdiction of any court of competent jurisdiction, for itself and in respect of its property, and waives in respect of both itself and its property any defense it may have as to or based on sovereign immunity, jurisdiction, improper venue, or inconvenient forum. Each Party hereby irrevocably consents to the service of any process or other papers by the use of any of the methods and to the addresses provided for the giving of notices in Section 22.1. Nothing herein shall affect the right of any Party to serve such process or papers in any other manner permitted by law.

20.6 Continuing Obligations

Pending settlement of any Dispute pursuant to this Section 20, the Parties shall continue to comply with and perform their obligations under this Agreement without prejudice to a final adjustment in accordance with a final award rendered by the Expert Panel or arbitral panel in accordance with this Section 20.

20.7 Exclusive Procedure for Resolving Disputes

This Section 20 sets forth the sole procedures for resolving any Dispute between the Parties, and neither Party may commence or maintain any suit or legal or equitable proceeding concerning a Dispute until the Dispute has been determined in accordance with the arbitration procedure provided for in this Agreement, and then only to enforce or facilitate the execution of the award rendered in such arbitration. The Parties agree to waive, to the maximum extent permitted by Legal Requirements, the right of appeal to a court of law.

ARTICLE IV CONTRACT TERMINATION

21 TERMINATION

21.1 Termination due to an Event of Default

21.1.1 Termination Procedure

Upon the occurrence of a Company Event of Default or an PGNS Event of Default, the following procedure shall apply:

- (a) The non-defaulting Party may give a notice (a ***“Termination Notice”***) to the defaulting Party, specifying in reasonable detail the Event of Default and the date on which the non-defaulting Party proposes to terminate this Agreement. Except in the case of paragraphs (b) and (c) below, the Agreement may be terminated on any date specified by the non-defaulting Party in the Termination Notice.
- (b) If a Company Event of Default occurs under Section 16.1, PGNS may provide written notice of default to the Company (a ***“Notice of Company Event of Default”***) within five (5) Days of becoming aware of the Company Event of Default. The Company

shall have thirty (30) Days from its receipt of the Notice of Company Event of Default in which to cure such Company Event of Default. If the Company needs more than that period to cure the default, the Company shall deliver to PGNS a plan (the ***“Company Rectification Plan”***) within ten (10) Days from the receipt of the Notice of Company Event of Default (or within such longer time as PGNS may approve), specifying the remedial actions the Company plans to take and the number of Days necessary to correct such Company Event of Default. The Company Rectification Plan shall be subject to PGNS’s prior written approval, which should not be unreasonably withheld. If (i) such Company Event of Default is not cured within the thirty (30)-Day period (or such longer period as PGNS may have approved), or (ii) PGNS withholds its approval of the proposed Company Rectification Plan for valid reasons after not less than ten (10) Days following its submittal, PGNS shall have the immediate right to terminate this Agreement by delivering a Termination Notice to the Company, which termination shall be effective as of the date specified by PGNS in the Termination Notice, which shall be not less than thirty (30) Days from the date the Company receives the Notice of Company Event of Default.

- (c) If a PGNS Event of Default occurs under Section 16.2, the Company may provide written notice of default to PGNS (a ***“Notice of PGNS Event of Default”***) within five (5) Days of becoming aware of PGNS Event of Default. PGNS shall have thirty (30) Days from its receipt of the Notice of PGNS Event of Default in which to cure such PGNS Event of Default. If PGNS needs more than that period to cure the default, PGNS shall deliver to the Company a plan (the ***“PGNS Rectification Plan”***) within ten (10) Days from the receipt of the Notice of PGNS Event of Default (or within such longer time as the Company may approve), specifying what remedial actions PGNS plans to take and the number of Days necessary to cure such PGNS Event of Default. PGNS Rectification Plan shall be subject to the Company’s prior written approval, which should not be unreasonably withheld. If (i) PGNS Event of Default is not cured within the thirty (30)-Day period (or such longer period as the Company may approve), or (ii) the Company reasonably withholds its approval of the proposed PGNS Rectification Plan after not less than ten (10) Days following its submittal, the Company shall have the immediate right to terminate this Agreement by delivering a Termination Notice to PGNS, which termination shall be effective as of the date specified by the Company in the Termination Notice, which shall be not less than thirty (30) Days from the date PGNS receives the Notice of PGNS Event of Default.

21.1.2 Default Termination Buy-Out Provisions

- (a) In the event of termination of this Agreement by PGNS under this Section 21.1 due to a Company Event of Default, PGNS shall have the right in its sole discretion to take over and purchase the inventory and other assets used for the operation of the Hospital Pharmacy valued as of Termination Date by a reputable auditing company (“Buyout Price A”), after deducting properly justified mobilization expenses of PGNS in taking over the Hospital Pharmacy.
- (b) In the event of termination of this Agreement by the Company due to a PGNS Event of Default, PGNS shall purchase from the Company, and the Company shall transfer ownership to PGNS, inventory and other assets used for the operation of the Hospital Pharmacy valued as of Termination Date by a reputable auditing company (“Buyout Price B”), plus properly justified demobilization expenses of the Company. In addition, PGNS shall pay the Company an amount equivalent to the “Return on Assets” applied on an annualized basis to Buyout Price B to the remaining number of days in the contract. “Return on Assets” shall be the ratio of net income to total

assets reported in the Company's audited financial statements for the Hospital Pharmacy from Effective Date to Termination Date.

- (c) Section 21.1 (*Termination due to an Event of Default*) does not preclude either Party from resorting to dispute resolution pursuant to Section 20.

21.2 Termination due to Prolonged Force Majeure Event

21.2.1 Termination by Company

The Company may terminate this Agreement if a Force Majeure Event prevents either Party from performing any of its material obligations under this Agreement for a continuous period of one hundred eighty (180) Days.

21.2.2 Termination by PGNS

PGNS may terminate this Agreement if:

- (a) A Non-Political or Political Force Majeure Event prevents PGNS from performing any of its material obligations under this Agreement for a continuous period of more than one hundred eighty (180) Days;
- (b) A Political Force Majeure Event prevents the Company from performing any of the Services for a continuous period of more than one hundred eighty (180) Days.

21.2.3 Termination by Either Party

Either Party may terminate this Agreement if an Event of Loss prevents the Company from rebuilding, repairing, and restoring the Hospital Pharmacy or the affected portion thereof as mutually agreed upon by the parties.

21.2.4 Termination Procedure

If a Party has the right to terminate this Agreement pursuant to this Section 21.2 (*Termination due to Prolonged Force Majeure Event*), it may give notice to the other Party specifying the date on which this Agreement shall terminate, which date shall not be less than ninety (90) Days from the date of such notice. When such date occurs, subject to the satisfaction of any payment or other obligations hereunder, this Agreement shall terminate and shall no longer be binding.

21.2.5 Force Majeure Termination Buy-Out Provisions

In the event of termination of this Agreement by PGNS under this Section 21.2 (*Termination due to Prolonged Force Majeure Event*), PGNS shall have the right in its sole discretion to take over and purchase the inventory and other assets used for the operation of the Hospital Pharmacy valued as of Termination Date by a reputable auditing company ("Buyout Price A"), after deducting proceeds from insurance.

21.3 Transfer of Facilities at Termination

When the Termination Date occurs, the Company shall return possession of the Leased Premises to PGNS. The Company shall, at its cost, take all the advanced steps necessary to ensure that the possession of the Leased Premises is fully transferable on the Termination Date.

**ARTICLE V
GENERAL PROVISIONS**

22 GENERAL PROVISIONS

22.1 Notices

22.1.1 Addresses

All notices, requests, agreements, or consents shall be in writing and in English and shall be deemed to have been duly given: (i) upon delivery if delivered by hand against written acknowledgment of receipt; (ii) on the Business Day following confirmed transmission if sent by facsimile; *provided* that such facsimile transmission shall be followed by notification by mail postmarked within three (3) Days; and (iii) upon delivery if sent by certified, registered (return receipt requested), or express mail, first-class postage prepaid, or by an express courier service, marked for overnight delivery. The word “notify” shall be construed accordingly. All notices shall be addressed as follows:

To PGNS:

[Full PGNS Name]

[PGNS Address]

Telephone: [?]

Facsimile: [?]

Attention: [?]

To the Company:

[Full Company Name]

[Company Address]

Telephone: [?]

Facsimile: [?]

Attention: [?]

22.1.2 Change of Address

A Party may change its address by giving the other Party written notice of such change pursuant to Section 22.1.1, provided that any such change shall not be effective until notice of such change has been received by the other Party in accordance with Section 22.1.1.

22.2 Entire Agreement

The following documents shall form part of this Agreement—bidding documents, winning bidder’s bid including his prequalification documents and price proposal, performance security, notice of award of contract, notice to proceed, and other contract documents that may be required by existing laws—provided that in case of conflict between the provisions of these documents with the Agreement, the latter shall govern.

22.3 Waivers

The failure of a Party to insist upon a strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of any right thereafter to insist upon a strict

adherence to that term or any other term of this Agreement. No waiver by a Party of any default or breach of this Agreement shall be construed as a waiver of any other provision, condition, or term hereof or of any other default or breach of the same provision, condition, or term. No delay in the exercise and no single or partial exercise by a Party of any right, remedy, or power hereunder, in equity, or at law, shall preclude any other or further exercise thereof or the exercise of any other right, remedy, or power existing hereunder, in equity, or at law. Any waiver must be in writing and signed by a duly authorized representative of the Party issuing the waiver.

22.4 Confidentiality and Disclosure

22.4.1 Confidentiality

Each Party shall hold in strict confidence from any other person all documents and information concerning any other Party or any of its Affiliates furnished to it or its advisors, consultants, contractors, or agents by the other Party in connection with this Agreement or the transactions contemplated hereby ("**Confidential Information**"), unless the information or that Party is:

- (a) Required to disclose any such information by judicial or administrative process (including in connection with obtaining from Government Authorities the necessary approvals of this Agreement and the transactions contemplated hereby) or by other Legal Requirements including the obligation to submit or publish the Agreement or any of the reports contemplated in Section 10;
- (b) Disclosed to persons providing or proposing to provide financing to the Company; or
- (c) Disclosed in an action or proceeding brought by either Party in pursuit of its rights or in the exercise of its remedies hereunder.

Notwithstanding the foregoing, this Section 22.4.1 shall not apply to such documents or information that were (i) previously known by the Party receiving such documents or information, (ii) in the public domain (either prior to or after the furnishing of such documents or information hereunder) through no fault of such receiving Party, or (iii) later acquired by such receiving Party from another source so long as such receiving Party is not aware that such source is under an obligation to the other Party to keep such documents and information confidential.

22.4.2 Required Disclosure

Any Party required by any Legal Requirement or in the course of administrative or judicial proceedings or in accordance with required disclosures of publicly-listed companies by registered securities exchanges to disclose information that is otherwise required to be maintained in confidence pursuant to Section 22.4.1, may disclose such information notwithstanding the provisions of Section 22.4.1; *provided, however*, that the Party making the disclosure shall give prior notice to the other Party of the requirement and its terms and shall cooperate to the maximum extent legally possible to minimize the disclosure of the information. The Party disclosing such information shall use reasonable efforts, at the other Party's cost, to obtain proprietary or confidential treatment of such information by the third party to whom the information is disclosed, and to the extent such remedies are available, shall use reasonable efforts to seek protective orders limiting the dissemination and use of the information at the other Party's cost. For avoidance of doubt, this Agreement does not alter the rights of the Parties to object to the Legal Requirement or proceedings requiring the disclosure.

22.5 Further Assurances

The Parties will do, execute, and deliver, or will cause to be done, executed, and delivered, all such further acts and such other things as each Party may reasonably request for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the representations, warranties, and covenants of this Agreement. The Parties further assure that they shall perform their obligations in a highly professional and diligent manner, with due efficiency and economy and timely execution of works and other obligations, in all respects with that degree of skill, diligence, prudence and foresight required from them, and with due attention to the need for fairness, openness and good faith in their dealings.

22.6 Severability

The validity of the remaining articles, clauses, provisions, terms, and parts of this Agreement shall not be affected by a court, administrative board, or other proceeding of competent jurisdiction deciding that an article, section, provision, term, or part of this Agreement is illegal, unenforceable, in conflict with any law, or contrary to public policy. In such event the Parties hereto shall, by amendment of this Agreement, properly replace such provision by a reasonable new provision or provisions that, as far as legally possible, approximate what the Parties intended by such original provision and the purpose thereof.

22.7 Language

This Agreement is being executed in the English language only. All documents, notices, waivers, and all other communications written or otherwise between the Parties in connection with this Agreement shall be in the English language. Any translation of this Agreement or any such communication, if any, shall be for convenience only and shall not be binding upon the Parties.

22.8 Counterparts

This Agreement may be executed in one or more duplicate counterparts and when signed by each of the Parties shall constitute an original and a single binding agreement. Any Party hereto may execute this Agreement by signing any such counterpart (including by facsimile). Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signatures are physically attached to the same counterpart.

22.9 Remedies Cumulative

Except with respect to liquidated damages payable pursuant to this Agreement for non-occurrence of the Effective Date and for delay in achieving the Provisional In-Service Date, no remedy or right herein conferred is intended to be exclusive of any other remedy or right, but every such remedy or right shall be cumulative and shall be in addition to every other remedy or right herein conferred or now or hereafter existing at law or in equity.

22.10 Amendments

No amendments or modifications of this Agreement shall be valid except by written agreement signed by duly authorized representatives of the Parties. Minutes of meetings or other informal documents shall not constitute a written agreement for purposes of the preceding sentence.

22.11 Governing Law

This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of the Philippines and shall for all purposes be conclusively deemed to be a Philippine contract.

22.12 Survival

All express representations, warranties, indemnities, and limitations of liability included in this Agreement shall survive its completion or termination for any reason.

IN WITNESS WHEREOF, the parties have hereunto signed this Agreement in Palo, Leyte, on the day and year first above written.

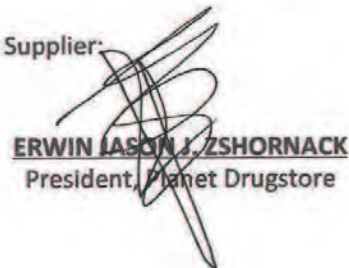
Signed, sealed and delivered by **PAUL R. DAZA** the Governor Province of Northern Samar.

Signed, sealed and delivered by **ERWIN JASON J. ZSHORNACK**, the President for **PLANET DRUGSTORE CORP.**

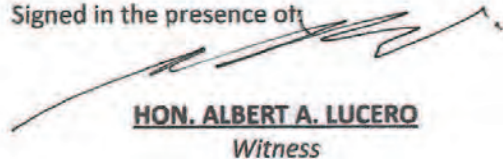
For the Entity:


PAUL R. DAZA
Governor

For the Supplier:

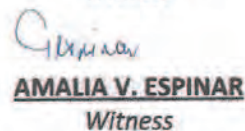

ERWIN JASON J. ZSHORNACK
President, Planet Drugstore

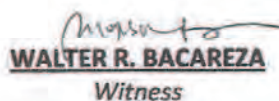
Signed in the presence of:


HON. ALBERT A. LUCERO
Witness


ATTY. EDUARDO D. DELA CRUZ
Witness


ALLAN G. VALENCIANO
Witness


AMALIA V. ESPINAR
Witness


WALTER R. BACAREZA
Witness


DR. JAIME S. BERNADAS
Witness

*Republic of the Philippines)
Cataraman, Northern Samar) S.C.*

BEFORE ME, Notary Public for and in the Province of Northern Samar, personally appeared **PAUL A. DAZA** with **CTC No. 25816795** issued on **Jan. 05, 2012** at Cataraman, Northern Samar, in his official capacity as Governor of the Province of Northern Samar, and **PLANET DRUGSTORE CORP.** represented by **ERWIN JASON J. ZSHORNACK** as the Supplier, with **CTC No.**_____, Issued on _____, **2012** at _____, known to me to be the same persons who executed the foregoing AGREEMENT and acknowledge to me that the same is their true act and voluntary deed for and in behalf of the parties they represent.

This instrument consists of Thirty-nine (39) pages, including the page on which this acknowledgment is written duly signed by the parties and their contracting witnesses on the margin of the pages.

WITNESS MY HAND AND SEAL.

Doc. No. _____:

Page No. _____

Book No. _____:

Series of 2012