

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the U.S. Agency for International Development (USAID) (collectively the “United States”) and Chemonics International, Inc. (Chemonics) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. Chemonics is a private international development firm based in Washington, D.C. In 2015, USAID awarded Chemonics the Global Health Supply Chain-Procurement and Supply Chain Management (GHSC-PSM) contract to provide health care supply chain management services and related technical assistance in a number of countries, including Nigeria. Chemonics also performed supply chain management services in Nigeria on behalf of the Global Fund to Fight AIDS, Tuberculosis, and Malaria (the Global Fund), an international financing organization. To assist Chemonics with contract performance in Nigeria, Chemonics subcontracted with third-party logistics providers (3PLs) based in the country, including the company Zenith Carex (Zenith). Specifically, Chemonics executed a subcontract with Zenith to provide last-mile delivery (LMD) and long-haul delivery (LHD) services for cold-chain commodities in Nigeria between May 2017 and March 2020 in support of the GHSC-PSM contract.

B. In January 2020, Chemonics disclosed to the United States allegations that Zenith had intentionally overbilled Chemonics for commodity distribution services and that there were allegations of possible collusion between one or more Chemonics employees and Zenith. In February 2020, in connection with an investigation by the Global Fund Office of Inspector

General (GF-OIG), Chemonics updated its January 2020 disclosure and disclosed to the United States allegations that Zenith had intentionally overbilled Chemonics for LHD and LMD services.

C. The United States contends that Chemonics submitted claims for payment to USAID under the GHSC-PSM contract.

D. The United States contends that it has certain civil claims against Chemonics arising from the following conduct:

1. With respect to LHD cold-chain services in Nigeria, the United States contends that, between June 2017 and March 2020, Zenith fraudulently charged Chemonics for its transportation services based on truck tonnage as opposed to the weight per kilogram of the commodity transported, as the subcontract between Chemonics and Zenith required (the “LHD Fraud”).

2. With respect to LMD cold-chain services in Nigeria, the United States contends that, between June 2017 and March 2020, Zenith fraudulently charged Chemonics a higher rate for its LMD delivery services than the subcontract permitted (the “LMD Fraud”).

3. The United States contends that Zenith systematically and fraudulently overcharged Chemonics for LHD and LMD services in Nigeria for more than 2 years, but Chemonics failed to detect either the LHD Fraud or the LMD Fraud until after the GF-OIG investigation.

4. The United States contends that Chemonics submitted claims for payment to USAID that were false because they relied upon Zenith’s fraudulent charges and that Chemonics’ failure to detect Zenith’s fraudulent overcharging was a result of Chemonics’ systematic process and personnel failures, including inadequate financial controls, monitoring, or

oversight and inadequate employee training, direction, and support. The United States contends that Chemonics did not have employees in Nigeria, or at Chemonics' headquarters, who were adequately focused on subcontractor compliance under the GHSC-PSM contract. The United States further contends that Chemonics' organizational structure hindered employees from learning or obtaining information that would have allowed them to detect or identify Zenith's fraud.

The conduct described in this Paragraph D is referred to herein as the "Covered Conduct."

E. Chemonics self-disclosed the conduct and cooperated with the United States' multi-year investigation, including by identifying individuals involved in or responsible for the issues; preserving, collecting, and disclosing relevant documents and information relating to the issues; disclosing facts gathered during its independent investigation, with attribution of the facts to specific sources; agreeing to five tolling agreements; and providing data and meaningful assistance in determining the potential amount owed to the United States.

F. Chemonics took remedial action to address Zenith's fraudulent overbilling, including, but not limited to: (1) terminating one employee for conduct in connection with the overbilling; (2) conducting a comprehensive internal review of Zenith and other 3PL invoices and supporting documentation to identify any other potential overbilling or issues; (3) attempting to recover the overpaid money from Zenith; and (4) enhancing Chemonics' internal oversight systems, processes, and policies in Nigeria.

G. Chemonics received credit under Department of Justice guidelines for taking disclosure, cooperation, and remediation into account in False Claims Act cases. Justice Manual § 4-4.112.

H. This Agreement is neither an admission of liability by Chemonics nor a concession by the United States that its claims are not well founded.

I. Chemonics denies the United States' allegations in Paragraph D.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Chemonics shall pay to the United States \$3,119,582.14 (Settlement Amount), of which \$2,079,721.43 is restitution, by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice. Chemonics shall make an initial payment of \$779,895.54 no later than 10 days after the Effective Date of this Agreement. Thereafter, Chemonics shall pay the remaining amount (\$2,339,686.60) plus interest at 4.0% per annum in 3 equal installments over 3 months, pursuant to the payment schedule attached as Exhibit A.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and conditioned upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, the United States releases Chemonics, together with its current and former member organizations and/or parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former member organizations and/or corporate owners; and the corporate successors and assigns of any of them, from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Contract

Disputes Act, 41 U.S.C. §§ 7101-7109; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. Chemonics waives and shall not assert any defenses Chemonics may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment

of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. Chemonics fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Chemonics has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Chemonics, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Chemonics' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; or
- (5) the payment Chemonics makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Chemonics, and Chemonics shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment:  
Within 90 days of the Effective Date of this Agreement, Chemonics shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Chemonics or any of its subsidiaries or affiliates from the United States. Chemonics agrees that the United States, at a minimum, shall be entitled to recoup from Chemonics any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Chemonics' books and records and to disagree with any calculations submitted by Chemonics or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Chemonics, or the effect of any such Unallowable Costs on the amount of such payments.

7. Chemonics agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Chemonics shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Chemonics further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any

investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

8. This Agreement is intended to be for the benefit of the Parties only.

9. The Parties agree that the five tolling agreements executed by the Parties throughout the duration of the civil investigation conducted by the Civil Division of the United States Department of Justice (namely, the tolling agreements dated September 16, 2022; February 22, 2023; July 28, 2023; March 16, 2024; and July 24, 2024) are void upon the Effective Date of this Agreement.

10. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

11. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

12. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the District of Columbia. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

13. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

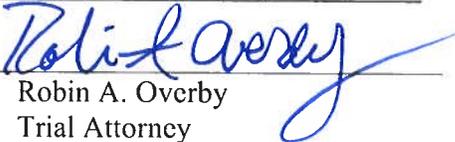
14. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

15. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

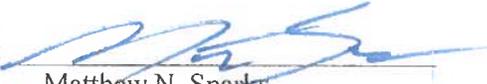
16. This Agreement is binding on Chemonics' successors, transferees, heirs, and assigns.

17. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

18. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

DATED: 12/19/2024 BY:   
Robin A. Overby  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 12/17/2024

BY: 

Matthew N. Sparks  
Assistant U.S. Attorney  
U.S. Attorney's Office for the  
Western District of Missouri

CHEMONICS - DEFENDANT



DATED: 12/16/2024 BY: \_\_\_\_\_

Christopher Scott  
Executive Vice President  
Chemonics International



DATED: 12/16/2024 BY: \_\_\_\_\_

Naana Frimpong  
Richard Rector  
Counsel for Chemonics

**Exhibit A**

**Payment Schedule**

| <b>Number of<br/>Calendar Days<br/>from Effective<br/>Date of<br/>Settlement<br/>Agreement</b> | <b>Principal</b> | <b>Installment<br/>Payment<br/>Amount</b> | <b>Interest (4.0%)<br/>on Principal</b> | <b>Payment</b> |
|--|------------------|---|---|----------------|
| 30   | \$2,339,686.60   | \$779,895.54                              | \$7,692.12                              | \$787,587.66   |
| 60   | \$1,559,791.06   | \$779,895.53                              | \$5,128.08                              | \$785,023.61   |
| 90   | \$779,895.54     | \$779,895.53                              | \$2,564.04                              | \$782,459.57   |