

LTA-Services Contractual Provisions to be used with the new 2017 GTCs

May 5th 2017

THIS LONG TERM ARRANGEMENT FOR SERVICES (this “LTA-S”) is made between:

THE UNITED NATIONS CHILDREN'S FUND (“UNICEF”), an international inter-governmental organisation established by the General Assembly of the United Nations by resolution No. 57(1) of 11 December 1946 as a subsidiary organ of the United Nations, having its headquarters at UNICEF House, Three United Nations Plaza, New York, New York, 10017, U.S.A. and having an office at UNICEF COTE D’IVOIRE. ABIDJAN, COCODY RIVIERA GOLF, DERRIERE LA GRANDE MOSQUEE; and

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[**COMPLETE COMPANY NAME**] (the “Contractor”, together with UNICEF the “Parties” and each one of them a “Party”), a corporation established and existing under the laws of [**COUNTRY**] and having its principal offices at [**ADDRESS**].

WHEREAS:

A. UNICEF is an integral part of the United Nations, and works with governments, civil society organizations and other partners worldwide to advance children’s rights to survival, protection, development and participation, guided by the Convention on the Rights of the Child.

B. The Contractor has offered and UNICEF has agreed to enter into an arrangement pursuant to which, during the term of the arrangement, the Contractor will provide to UNICEF such services (the “Services”) and deliverables (the “Deliverables”) as described in the relevant section of this LTA-S as UNICEF may order by issuing to the Contractor standard-form UNICEF Contracts for Services (each a “Contract for Services”), on the terms and conditions, including as to fees, set out in this LTA-S.

C. The Contractor has represented that it possesses and through the term of this LTA-S will continue to possess the requisite knowledge, skill, personnel, resources and experience and that it is, and throughout the term of this LTA-S will continue to be, fully qualified, ready, willing, and able to provide the Services and Deliverables in accordance with the terms and conditions set out in this LTA-S and each Contract for Services issued under this LTA-S and UNICEF has relied on those representations in entering into this LTA-S.

NOW THEREFORE, the Parties agree as follows:

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1. LTA-S Documents

1.1 This LTA-S comprises:

- (a) this document (including any Special Terms and Conditions set out at Article 8 below);
- (b) the UNICEF General Terms and Conditions of Contract (Services) attached as Annex A; and
- (c) the other annexes (if any) attached to this document.

The documents comprising this LTA-S are complementary of one another, but if there is any ambiguity or inconsistency between those documents, then (i) this document will take precedence over the UNICEF General Terms and Conditions of Contract (Services) and the other annexes (if any), and (ii) the UNICEF General Terms and Conditions of Contract (Services) will take precedence over the other annexes (if any).

1.2 This LTA-S and the Contracts for Services issued under it constitute the entire agreement between the Parties with regard to the provision of the Services and Deliverables to UNICEF by the Contractor. All prior representations, agreements, contracts and proposals, whether written or oral, by and between the Parties on this subject are superseded. No promises, understandings, obligations, supplemental undertakings, licenses, terms-of-service, shrink-wrap, click-wrap, browse-wrap, confidentiality, non-disclosure, non-compete, acceptable use policies, or other forms of agreement (oral or otherwise) concerning any Services or Deliverables provided or to be provided under this LTA-S and any Contract for Services will be valid and enforceable against UNICEF, nor in any way will constitute an agreement by UNICEF, unless agreed by a valid amendment concluded in accordance with Article 11.9 of the UNICEF General Terms and Conditions of Contract (Services).

1.3 Capitalized terms used but not defined in this document have the meaning assigned to them in the UNICEF General Terms and Conditions of Contract (Services); provided that references to “the Contract” in the UNICEF General Terms and Conditions (Services) will be deemed to refer this LTA-S and the relevant Contract for Services.

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1.4 Subject to any changes agreed pursuant to Article 3.6 of this LTA-S, in the case of any inconsistencies between the terms of a Contract for Services and the terms of this LTA-S, the terms of this LTA-S will prevail over the terms of the relevant Contract for Services, except with regard to the specifications or technical requirements specified in the Contract for Services which will prevail over this LTA-S.

2. Effective Date; LTA-S Period

2.1 This LTA-S will come into effect on the date UNICEF receives a copy of this LTA-S counter-signed by the Contractor.

2.2 This LTA-S will be effective for a period (the “LTA-S Period”) beginning on [INSERT DATE] or the date UNICEF receives a copy of this LTA-S counter-signed by the Contractor whichever is later (the “Start Date”) and ending at midnight ([CITY time]) on [INSERT DATE] (the “End Date”), unless earlier terminated in accordance with the provisions of this LTA-S.

2.3 UNICEF will be entitled to renew this LTA-S and extend the LTA-S Period for a further term of [INSERT TERM], on the same terms and conditions, by giving the Contractor written notice of renewal of the LTA-S not less than thirty (30) days prior to the End Date.

3. Long-term Arrangement for the Ordering and Providing Services and Deliverables

3.1 During the LTA-S Period, the Contractor will provide to UNICEF such Services and Deliverables as UNICEF may order by issuing Contracts for Services to the Contractor. Such ordering and provision of Services and Deliverables will be on the terms and conditions, including as to fees, rates and charges, set out in this LTA-S.

3.2 Each Contract for Services will be in UNICEF’s standard form and will incorporate the UNICEF General Terms and Conditions of Contract (Services).

3.3 Each Contract for Services will specify (a) that it is being issued under this LTA-S, stating the LTA-S number; (b) the scope of work, requirements and instructions for the Services and

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Deliverables to be provided under the Contract for Services; (c) the applicable time schedule for provision of the Services (or each component of the Services) and delivery of the Deliverables (or installments of the Deliverables); and (d) the Fee(s) for such Services and Deliverables in accordance with the fees, rates and charges set out in this LTA-S.

3.4 Each Contract for Services will be issued to the Contractor at the address provided to UNICEF as part of the Contractor's registration process with UNICEF. The Contractor will confirm its acceptance of each Contract for Services by counter-signing it, and returning it to UNICEF, within five (5) working days of receiving it. Each Contract for Services will be a binding contract between UNICEF and the Contractor, incorporating the terms of this LTA-S, when UNICEF receives a copy of such Contract for Services counter-signed by the Contractor.

3.5 The Parties acknowledge and agree that, nothing contained in such Contract for Services will be deemed, interpreted or otherwise construed as varying from, derogating from, adding to, or in any other way altering the essential terms and conditions of this LTA-S that would otherwise apply to the transaction contemplated by such Contract for Services.

3.6 Notwithstanding the provisions of Article 3.5 above, the Parties may agree, with regard to any Contract for Services, to amend the terms and conditions of this LTA-S exclusively for the purpose of the transaction contemplated in such Contract for Services and in that case the Contract for Services in question will expressly state the amendments agreed to for the transaction contemplated in that Contract for Services. Neither Party will be required to agree to an amendment to the terms and conditions of this LTA-S proposed by the other Party with regard to the transaction contemplated in an individual Contract for Services.

3.7 The Contractor acknowledges that:

(a) UNICEF is not obligated to order any minimum level of Services and Deliverables from the Contractor pursuant to this LTA-S;

(b) UNICEF will not be liable for any cost in the event that it issues no Contracts for Services under this LTA-S; and

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(c) This LTA-S is non-exclusive, and UNICEF is entitled to enter into the same or similar arrangements with other contractors and procure the same or similar Services and Deliverables from other contractors, as UNICEF sees fit.

3.8 *[INCLUDE FOR TARGET VALUE LTA-S: The maximum total fee for Services and Deliverables that may be purchased pursuant to Contracts for Services issued under this LTA-S is the amount of [AMOUNT IN WORDS] United States Dollars (US\$[]) unless such amount has been increased by a valid amendment concluded in accordance with Article 11.9 of the UNICEF General Terms and Conditions of Contract (Services).]*

3.9 The Contractor acknowledges and agrees that, in the interests of transparency and efficiency among organizations of the United Nations system, UNICEF may make available a copy of this LTA-S to such organizations.

4. Fees and Payment Terms

4.1 During the LTA-S Period, the Contractor will provide the Services and Deliverables to UNICEF at the fees, rates and charges, as the case may be, set out in relevant section of this LTA-S or the fee schedule annexed to this LTA-S, such fees, rates and charges remaining fixed throughout the LTA-S Period. The Contractor represents that these fees, rates and charges are the most favourable pricing terms available to any customer of the Contractor (or of any of its Affiliates). If at any time during the LTA-S Period, any other customer of the Contractor (or of any of the Contractor's Affiliates) obtains more favourable pricing terms than those provided to UNICEF with regard to the same or similar services and deliverables as contemplated under this LTA-S, the Contractor will retroactively adjust the fees, rates and charges and related pricing terms under this LTA-S to conform to the more favourable terms and the Contractor will promptly pay UNICEF any amounts owing to UNICEF as a result of such retroactive fee adjustment.

4.2 In addition to the instructions set out in the UNICEF General Terms and Conditions of Contract (Services), invoices issued under any Contract for Services must refer to this LTA-S as well as the Contract for Services to which the invoice relates, and the Contract for Services and LTA numbers must be printed on the invoices.

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[4.3 Payment against the Contractor's invoice will reflect a discount of [PERCENTAGE] provided payment is made within [NUMBER OF DAYS] from the date of receipt of the Contractor's invoice by UNICEF.]

5. Consequences of Delay; Liquidated Damages.

5.1 The Contractor's notification and other obligations in respect of delay in delivery of Services or Deliverables, as well as the consequences of delay, and UNICEF's rights and remedies in respect of any such delay, are governed by the UNICEF General Terms and Conditions of Contract (Services).

5.2 In addition to, and without prejudice to any of the other rights and remedies of UNICEF including, but not limited to, those set out in the UNICEF General Terms and Conditions of Contract (Services), if the Contractor fails to provide the Services or the Deliverables in accordance with the time schedule set out in the relevant Contract for Services, or if UNICEF determines that the Services or Deliverables do not conform to the requirements of this LTA-S and the relevant Contract for Services, UNICEF may claim liquidated damages from the Contractor and, at UNICEF's option, the Contractor will pay such liquidated damages to UNICEF or UNICEF will deduct such liquidated damages from the Contractor's invoice(s). Such liquidated damages will be calculated as follows: one half of one per cent (0.5%) of the Contract Fee for the delayed Services and Deliverables for each day of delay, or in the case of a Fee calculated on a time-based rate, one half of one per cent (0.5%) of the time-based rate for all the Contractor Personnel required to provide the relevant Services or Deliverables, until performance of conforming Services or delivery of conforming Deliverables, up to a maximum of ten per cent (10%) of the value of the relevant Contract for Services. The payment or deduction of such liquidated damages will not relieve the Contractor from any of its other obligations or liabilities pursuant to this LTA-S and the relevant Contract for Services.

6. Termination of this LTA-S

6.1 Termination by Either Party for Convenience. Either Party can terminate this LTA-S on not less than ninety (90) days' written notice without having to provide any justification. The termination will be effective on the expiry of such ninety (90) days' notice period.

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6.2 Termination by Either Party for Material Breach. If one Party is in material breach of any of its obligations under this LTA-S, the other Party can give it written notice that within thirty (30) days of receiving such notice the breach must be remedied (if such breach is capable of remedy). If the breaching Party does not remedy the breach within the thirty (30) days' period or if the breach is not capable of remedy, the non-breaching Party can terminate this LTA-S. The termination will be effective thirty (30) days after the non-breaching Party gives the breaching Party written notice of termination. The initiation of conciliation or arbitral proceedings in accordance with Article 9 (Privileges and Immunities; Settlement of Disputes) of the UNICEF General Terms and Conditions of Contract (Services) will not be grounds for termination of this LTA-S.

6.3 Additional Termination Rights of UNICEF. In addition to the termination rights under Articles 6.1 and 6.2 above, UNICEF can terminate this LTA-S with immediate effect upon delivery of a written notice of termination to the Contractor, without any liability for termination charges or any other liability of any kind:

(a) in the circumstances described in, and in accordance with, Article 7 (*Ethical Standards*) of the UNICEF General Terms and Conditions of Contract (Services); or

(b) if the Contractor breaches any of the provisions of Articles 5.2-5.11 (*Confidentiality; Data Protection and Security*) of the UNICEF General Terms and Conditions of Contract (Services); or

(c) if the Contractor (i) is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent, (ii) is granted a moratorium or a stay, or is declared insolvent, (iii) makes an assignment for the benefit of one or more of its creditors, (iv) has a receiver appointed on account of the insolvency of the Contractor, (v) offers a settlement in lieu of bankruptcy or receivership or (vi) has become, in UNICEF's reasonable judgment, subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under this LTA-S.

6.4 The termination rights in Articles 6.1, 6.2, and 6.3 above are in addition to all other rights and remedies under this LTA-S.

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6.5 Consequences of Termination of this LTA-S. The termination of this LTA-S will be without prejudice to each Contract for Services issued under this LTA-S and outstanding at the effective date of termination, in respect of which this LTA-S will continue to apply, unless and until such Contract for Services expires or is terminated in accordance with its terms.

6.6 Consequences of Termination of a Contract for Services. Contracts for Services issued under this LTA-S may be terminated in accordance with their terms. The termination of a Contract for Services will be without prejudice to this LTA-S which will continue in effect, unless and until the LTA-S Period expires or is terminated in accordance with this Article 6.

6.7 Force Majeure. If one Party is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations under this LTA-S, the other Party may terminate this LTA-S on the same terms and conditions as are provided for in Article 6.2 above, except that the period of notice will be seven (7) days instead of thirty (30) days. “Force majeure” means any unforeseeable and irresistible events arising from causes beyond the control of the Parties, including acts of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism or other acts of a similar nature or force. “Force majeure” does not include (a) any event which is caused by the negligence or intentional action of a Party; (b) any event which a diligent party could reasonably have been expected to take into account and plan for at the time this LTA-S was entered into; (c) the insufficiency of funds, inability to make any payment required under this LTA-S, or any economic conditions, including but not limited to inflation, price escalations, or labour availability; or (d) any event resulting from harsh conditions or logistical challenges for the Contractor (including civil unrest) associated with locations at which UNICEF is operating or is about to operate or is withdrawing from, or any event resulting from UNICEF’s humanitarian, emergency, or similar response operations.

7. Notices; Coordination

7.1 UNICEF’s and the Contractor’s contact and address for notices under this LTA-S are set out below. Each Party will notify the other in writing of any change in such Party’s contact and address for notices.

If to UNICEF:

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UNICEF

[ADDRESS]

Attention: [INSERT NAME], [TITLE]

[Fax: + [INSERT DETAILS]]

E-mail: [INSERT DETAILS]

If to the Contractor:

[COMPLETE COMPANY NAME]

[ADDRESS]

Attention: [CONTACT NAME], [TITLE]

[Fax: [INSERT DETAILS]]

E-mail: [INSERT DETAILS]

7.2 UNICEF and the Contractor will each nominate a representative to be responsible for the day-to-day coordination and management of this LTA-S and will inform the other Party by exchange of emails. The Parties' representatives responsible for the day-to-day coordination and management of each Contract for Services will be as set out in the relevant Contract for Services.

8. Special Terms and Conditions. The additional Special Terms and Conditions (if any) specified below will apply to this LTA-S and each Contract for Services issued under this LTA-S. These additional Special Terms and Conditions will not apply to any other arrangement, contract or contractual relationship between the Parties unless expressly agreed to in writing.

[Include special terms (if any) that apply to this LTA-S.]