REQUEST FOR PROPOSAL

LRFP-2020-9160740

19 August 2020

UNITED NATIONS CHILDREN'S FUND (UNICEF)

Wishes to purchase

Request for Proposal (RFP) 2020-10-9160740 Individual and/or Institutional Consultancy for:

1. Drinking Water Safety and Security Planning in Healthcare Facilities;
THIS REQUEST FOR PROPOSAL HAS BEEN:

Prepared By:  
Christine CALO-OY  
(To be contacted for additional information, NOT FOR SENDING OFFERS)  
Email : ccalooy@unicef.org

Verified By:
BID FORM

BID FORM must be completed, signed and returned to UNICEF. Bid must be made in accordance with the instructions contained in this INVITATION.

TERMS AND CONDITIONS OF CONTRACT
Any Purchase Order resulting from this INVITATION shall contain UNICEF General Terms and Conditions and any other Specific Terms and Conditions detailed in this INVITATION.

INFORMATION
Any request for information regarding this INVITATION must be forwarded by email to the attention of the person who prepared this document, with specific reference to the Invitation number.

The Undersigned, having read the Terms and Conditions of INVITATION No. LRFP-2020-9160740 set out in the attached document, hereby offers to execute the services specified in the Terms and Conditions set out in the document.

Signature: _____________________________

Date: ________________________________

Name & Title: __________________________

Company: ______________________________

Postal Address: _________________________

Tel No: ________________________________

Fax No: ________________________________

E-mail Address: _________________________

Validity of Offer: _______________________

Currency of Offer: ______________________

Please indicate after having read UNICEF Price & Discount stated in the Specific Terms and Conditions, which of the following Payment Terms are offered by you:

10 Days 3.0% _____ 15 Days 2.5% _____ 20 Days 2.0% _____ 30 Days Net _____

Other Trade Discounts ___________________
SCHEDULE NO:  1  RFP2020-10

00010   

1 Perf. unit

Request for Proposal (RFP) 2020-10-9160740 - Individual and/or Institutional Consultancy for:

1. Drinking Water Safety and Security Planning in Healthcare Facilities; and

2. Village Water Committee Training Material Creator

Please find attached the detailed Terms of References.

IMPORTANT ESSENTIAL INFORMATION
Your offer comprising of a Technical Proposal and a Price Proposal, in two separate sealed envelopes referenced RFP 2020/10-9160740 should be received at the UNICEF Suva Office by latest on Friday, 4 September 2020 at 5.00 pm (Fiji Time) or this could be e-mailed to <pacificbids@unicef.org> and referenced in separate e-mails to RFP 2020/10-9160740/Technical and RFP 2020/10-9160740/Financial. Proposals received after the stipulated date and time will be invalidated. It is important that you read all of the provisions of the Request for Proposal, to ensure that you understand UNICEF’s requirements and can submit a bid in compliance with them. Note that failure to provide compliant proposals may result in invalidation of your proposal.

Should you have any queries, this should be addressed to the following by latest 5.00 pm on 24 August 2020:

Christine Calo-oy, Senior Supply Associate
E-mail: ccalooy@unicef.org

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INSTRUCTION TO BIDDERS

1. MARKING AND RETURNING PROPOSALS

1.1 Proposals shall be submitted in the manner specified earlier in this solicitation document. Detailed submission guidance at paragraphs 1.7, 1.8 and/or 1.9 should then be followed accordingly.

1.2 The Bid Form/Request for Proposal for Services Form must be signed, and submitted together with the Proposal. The Bid Form/Request for Proposal for Services Form should be signed by the duly authorized representative of the submitting company.

1.3 Proposals must be clearly marked with the RFP(S) number and the name of the company submitting the Proposal.

1.4 Proposers should note that Proposals received in the following manner will be invalidated:

a) with incorrect (as applicable) postal address, email address or fax number;

b) received after the stipulated closing time and date;

c) failure to quote in the currency(ies) stated in the RFP(S);

d) in a different form than prescribed in the RFP(S).

1.5 Technical Proposal: The Technical Proposal should address the criteria and requirements outlined in this RFP(S), paying particular attention to its schedule/Terms of Reference/Statement of Work and its evaluation criteria. It is important to note that UNICEF actively welcomes innovative proposals and original solutions to the stated service/goods need.

NO PRICE INFORMATION SHOULD BE CONTAINED IN THE TECHNICAL PROPOSAL.

1.6 Price Proposal: The Price Proposal should be prepared in accordance with the requirements contained in the schedule/Terms of Reference/Statement of Work for this RFP(S).

1.7 Sealed Proposals (as applicable)

1.7.1 See paragraph 1.1 above concerning applicability of this paragraph.

1.7.2 The Proposal must be sent for the attention of unit/team and address as specified in this RFP/RFPS. Proposals not sent in this manner will be disqualified.

1.7.3 They must be clearly marked as follows:

* Outer sealed envelope:
   Name of company
   [RFP(S) NO.]
   [NAME OF UNIT & UNICEF OFFICE ADDRESS]

* Inner sealed envelope - Technical Proposal (1 original and 2 copies): Name of company, RFP(S) number - technical proposal

* Inner sealed envelope - Price Proposal (1 original and 2 copies): Name of company, RFP(S) number - price proposal

No price information should be provided in the Technical Proposal.

Proposals received in any other manner will be invalidated.

1.7.4 In case of any discrepancy between an original and a copy, the original will prevail.

1.7.5 Any delays encountered in the mail delivery will be at the risk of the Proposer.

1.8 Faxed Proposals (as applicable)

1.8.1 See paragraph 1.1 above concerning applicability of this paragraph.

1.8.2 Faxed Proposals must be returned to the ONLY ACCEPTABLE FAX NUMBER for Proposals as specified in this RFP(S) Document. Proposers should note that Proposals received at any other fax number will be invalidated.

No price information should be provided in the Technical Proposal.

1.9 E-mailed Proposals (as applicable)

1.9.1 See paragraph 1.1 above concerning applicability of this paragraph.

1.9.2 All e-mailed Proposals must be submitted to the ONLY ACCEPTABLE E-MAIL ADDRESS as specified in this solicitation document. No other recipient should be "Cc" or "Bcc" in the e-mail submission. Proposals not sent in this manner will be disqualified.

1.9.3 All Proposals submitted by e-mail must be submitted as email attachments. The Technical Proposal and Price Proposal must be sent as separate attachments and clearly indicated as such in the file name (e.g. Company ABC Technical Proposal, Company ABC Price Proposal). Email links (e.g. to documents downloaded from cloud based folders) are not acceptable unless otherwise specifically requested. Proposals submitted as a link or through a link will be invalidated.

2. OPENING OF PROPOSALS

2.1 Proposals received prior to the stated closing time and date will be kept unopened. UNICEF will open Proposals when the specified time has arrived and no Proposal received thereafter will be considered.

2.2 UNICEF will accept no responsibility for the premature opening of a Proposal which is not properly addressed or identified.

2.3 In cases when a Public Opening is held, the invited proposers, or their authorized representative, may attend the public Proposal opening at the time, date and location specified in the RFP(S) documents.

3. UNGM REGISTRATION

3.1 UNICEF is part of the United Nations Global Marketplace(UNGM). Accordingly, all proposers are encouraged to become a UNICEF vendor by creating a vendor profile in the UNGM website: www.ungm.org

4. AWARD NOTIFICATION

4.1 UNICEF reserves the right to make a public notification of the outcome on an RFP(S) advising product/service, awarded supplier and total value of award.
ANNEX A

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS OF CONTRACT (Goods)

Definitions and UNICEF Supply Website

1.1 In these General Terms and Conditions (Goods), the following terms have the following meaning:

"Affiliates" means, with respect to the Supplier, any of its corporate affiliates or associates, including parent entities, subsidiaries, and other entities in which it owns a substantial interest.

"Confidential Information" means information or data that is designated as confidential at the time of exchange between the Parties or promptly identified as confidential in writing when furnished in tangible form or disclosed orally, and includes information, the confidential or proprietary nature of which is or should be reasonably apparent from the inherent nature, quality or characteristics of such information.

"Consignee" means the consignee designated in the Contract.

"Contract" means the purchase contract that incorporates these General Terms and Conditions (Goods). It includes purchase orders issued by UNICEF, whether or not they are issued under a long-term arrangement or similar contract.

"Goods" means the goods specified in the relevant section of the Contract.

"Host Government" means a Government with which UNICEF has a programme of development cooperation, and includes a Government of a country in which UNICEF provides humanitarian assistance.

"INCOTERMS" means the international commercial terms known as the INCOTERMS rules, issued by the International Chamber of Commerce, most-recently issued at the effective date of the Contract. References in the Contract to trade terms (such as "FCA", "DAP" and "CIP") are references to those terms as defined by the INCOTERMS.

"Parties" means the Contractor and UNICEF together and a "Party" means each of the Contractor and UNICEF.

Supplier's "Personnel" means the Supplier's officials, employees, agents, individual sub-contractors and other representatives.

"Price" is defined in Article 3.1.

"Supplier" is the supplier named in the Contract.

"UNICEF Supply Website" means UNICEF’s public access webpage available at http://www.unicef.org/supply/index_products_policies.html, as may be updated from time to time.

1.2 These General Terms and Conditions, UNICEF’s Policy Prohibiting and Combating Fraud and Corruption, the UNICEF’s Policy on Conduct Promoting the Prevention and Safeguarding of Children, the UN Supplier Code of Conduct, and UNICEF’s Information Disclosures Policy referred to in the Contract, as well as other policies applicable to the Supplier, are publicly available on the UNICEF Supply Website. The Supplier represents that it has reviewed all such policies as of the effective date of the Contract.

2. Delivery, Inspection, Risk of Loss

2.1 The Supplier will deliver the Goods to the Consignee at the place and within the time period for delivery stated in the Contract. The Supplier will comply with the INCOTERMS or similar trade terms expressly stated in the Contract as applying to the Goods to be supplied under the Contract and all other delivery terms and instrument issued in the Contract. Notwithstanding any INCOTERMS, the Supplier will obtain any export licences required for the Goods. The Supplier will ensure that UNICEF receives all necessary transport documents in a timely manner so as to enable UNICEF to take delivery of the Goods in accordance with the requirements of the Contract. The Supplier will notify consignees not to accept any Goods from any entity other than UNICEF for entities named in UNICEF’s letters to UNICEF to give instructions to the Supplier in connection with the supply and delivery of the Goods.

2.2 The Supplier will use its best efforts to accommodate reasonable requests for changes of any kind to the requirements for the Goods (such as packaging, packing and blinding requirements), shipping instructions or delivery date, UNICEF and the Supplier will negotiate any necessary changes to the Contract, including as to price and the time schedule. Any such agreed changes will become effective only when they are set out in a written amendment to the Contract signed by both UNICEF and the Supplier. If the Parties fail to agree on any such changes within thirty (30) days, UNICEF will have the option to terminate the Contract without prejudice notwithstanding any earlier provision of the Contract.

2.3 The Supplier acknowledges that UNICEF may measure the Supplier's performance under the Contract. The Supplier agrees to provide to full cooperation with such performance measuring, at no additional cost or expense to UNICEF, and provide relevant information as reasonably requested by UNICEF, including, but not limited to, the date of receipt of the Goods, delivery status, costs to be charged and payments made by UNICEF or pending.

Inspection

2.4 UNICEF or the Consignee (if different from UNICEF) will have a reasonable time to inspect the Goods after delivery. At UNICEF's request, the Supplier will provide an inspection to UNICEF or the Consignee with regard to such inspection, including but not limited to access to production data, at no charge. The Supplier acknowledges that any inspection of the Goods by or on behalf of UNICEF or the Consignee does not constitute a determination that the specifications for the Goods set out in the Contract (including the mandatory technical requirements) have or have not been met. The Supplier will be required to comply with its warranty and other contractual obligations whether or not UNICEF or the Consignee carries out an inspection of the Goods.

Delivery not Acceptance; Consequences of Delayed Delivery and Non-conforming Goods

2.5 If the Supplier determines that it will be unable to deliver all or some of the Goods to the Consignee by the delivery date(s) stipulated in the Contract, the Supplier will (a) immediately consult with UNICEF to determine the most expedient means for delivering the Goods; and (b) use an expedited means of delivery, at the Supplier's cost unless the delays are due to force majeure as defined in Article 6.7 below, if reasonably requested by UNICEF to do so. Partial delivery of Goods will not be accepted unless prior written approval for such partial delivery has been given by UNICEF to the Supplier.

2.6 Delivery of the Goods will not constitute acceptance of the Goods. If some or all of the Goods do not conform to the requirements of the Contract or if the Supplier delivers the Goods late or fails to deliver the Goods (for any part of the Goods) in accordance with the agreed delivery dates and delivery terms and instructions, UNICEF may, without prejudice to any of its other rights and remedies, exercise one or more of the following rights under the Contract at UNICEF’s option:

(a) UNICEF can reject and refuse to accept any or all of the Goods (excluding those that do conform to the Contract). If UNICEF rejects the Goods, the Supplier will, at its own cost, arrange for the prompt return of the rejected Goods and, at UNICEF's option, the Supplier will promptly replace the rejected Goods with Goods of equal or better quality (and will be responsible for all costs related to such replacements or UNICEF may exercise other rights set out below;)

(b) UNICEF may require all or part of the Goods from other sources, in which case the Supplier will be responsible for any additional costs beyond the balance of the Price for such Goods;

(c) Upon UNICEF’s demand, the Supplier will refund all payments (if any) made by UNICEF in respect of the rejected Goods or the Goods that have not been delivered in accordance with the delivery dates and delivery terms;

(d) UNICEF can give written notice of breach and, if the Supplier fails to remedy the breach, can terminate the Contract in accordance with Article 6.1 below;

(e) UNICEF can require the Supplier to pay liquidated damages as set out in the Contract.

2.7 Further to Article 11.6 below, the Supplier expressly acknowledges that if, in respect of any consignment, UNICEF takes delivery of all or some of the Goods that have been delivered late or otherwise not in full compliance with the delivery terms and instructions so that are not in full conformity with the requirements of the Contract, this does not constitute a waiver of UNICEF’s rights in respect of such late delivery or non-compliant Goods.

Risk of Loss; Title to Goods

2.8 Risk of loss, damage or destruction of Goods supplied under the Contract, and responsibility for arranging and paying for freight and insurance, will be governed by the
ANNEX A

GENERAL TERMS AND CONDITIONS

INCOTERMS or similar trade terms expressly stated in the Contract as applying to the Goods supplied under the Contract and any other express terms of the Contract. In the absence of any such INCOTERMS or similar trade terms or other express terms, the following provisions will apply: (a) the entire risk of loss, damage or destruction of the Goods will be borne exclusively by the Supplier until physical delivery of the Goods to the Consignee has been completed in accordance with the Contract; and (b) the Supplier will be solely liable for making all transport arrangements and for the payment of freight and insurance costs for the shipment and delivery of the Goods in accordance with the requirements of the Contract.

2.9 Unless otherwise expressly provided in the Contract, title to and to the Goods will pass from the Supplier to the Consignee upon delivery of the Goods in accordance with the applicable delivery terms and acceptance of the Goods in accordance with the Contract.

3. Prices; Invoicing; Tax Exemptions; Payment Terms

3.1 The price for the Goods is the amount specified in the price section of the Contract (the "Price"), being understood that such amount is specified in United States dollars unless otherwise expressly provided for in the price section of the Contract. The Price includes the cost of packing and delivering the Goods in accordance with the requirements of the Contract and delivery in accordance with the applicable delivery terms. The Price is inclusive of all costs, expenses, charges or fees that the Supplier may incur in connection with the performance of its obligations under the Contract; provided that, without prejudice to the generality of the provisions of Article 3.3 below, all duties and other taxes imposed by any authority or entity must be separately identified. It is understood and agreed that the Supplier will not request any change in the Price after delivery of the Goods by the Supplier and that the Price cannot be changed except by written agreement between the Parties before the Goods are delivered.

3.2 The Supplier will issue invoices to UNICEF only after the Supplier has fulfilled the delivery terms of the Contract. The Supplier will issue (a) (one) (3) invoice in respect of the payment being sought, in the currency specified in the Contract and in English, indicating the Contract identification number listed on the front page of the Contract; and (b) copies of the shipping documents and other supporting documents as specified in the Contract.

3.3 The Supplier further acknowledges UNICEF is not to debit from the Supplier’s invoices any amount representing direct taxes (except charges for utilities services) and customs restriction, duties and charges of a similar nature in respect of articles imported or exported for UNICEF’s official use, in accordance with the exemption from tax in Article II, Section 7 of the Convention of the Privileges and Immunities of the United Nations, 1946. In the event any governmental authority refuses to recognize this exemption from taxes, restrictions, duties or charges, the Supplier will instantly consult with UNICEF to determine a mutually acceptable procedure. The Supplier will provide full cooperation to UNICEF with regard to avoiding UNICEF’s exemption from, or refund of amounts paid as, value-added taxes or taxes of a similar nature.

3.4 UNICEF will notify the Supplier of any dispute or discrepancy in the contract or form of any invoice. With respect to disputes regarding only a portion of such invoice, UNICEF will pay the Supplier the amount of the undisputed portion in accordance with Article 3.1 below. UNICEF and the Supplier will communicate in good faith to promptly resolve any dispute with respect to any invoice. Upon resolution of such dispute, any amounts that have not been charged in accordance with the Contract will be debited from the invoice(s) in which they appear and UNICEF will pay any agreed remaining items in the invoices in accordance with Article 3.5 within thirty (30) days after the final resolution of such dispute.

3.5 UNICEF will pay the unreimbursed amount of the Supplier’s invoice within thirty (30) days of receiving both the invoice and the shipping documents and other supporting documents, as referred to in Article 3.2 above. The amount paid will reflect any discount(s) shown under the payment terms of the Contract. The Supplier will not be entitled to demand on any late payment or any sums payable under the Contract nor any accrued interest on payments withheld by UNICEF in connection with a dispute. Payment will not relieve the Supplier of its obligations under the Contract. Payment will not be deemed acceptance of the Goods or waiver of any rights with regard to the Goods.

3.6 Each invoice will confirm the Supplier’s bank account details provided to UNICEF as part of the Supplier’s registration process with UNICEF. All payments due to the Supplier under the Contract will be made by electronic funds transfer to that bank account. It is the Supplier’s responsibility to ensure that the bank details supplied by it to UNICEF are up-to-date and accurate and notify UNICEF in writing by an authorized representative of the Supplier of any changes in bank details together with supporting documentation satisfactory to UNICEF.

3.7 The Supplier acknowledges and agrees that UNICEF may withhold payment in respect of any invoice if, in UNICEF’s opinion, the Supplier has not performed in accordance with the terms and conditions of the Contract, or if the Supplier has not provided sufficient documentation in support of the invoice.

3.8 UNICEF will have the right to set off against any amount or amounts due and payable to the Supplier under the Contract, any payment, indebtedness or other item (excluding, without limitation, any overpayment made by UNICEF to the Supplier) owing by the Supplier to UNICEF under the Contract or under any other contract or agreement between the Parties. UNICEF will not be required to give the Supplier prior notice before exercising this right of set-off except notice being waived by the Supplier. UNICEF will promptly notify the Supplier after it has exercised such right of set-off. Explaining the reasons for such set-off, provided however that the failure to give such notification will not affect the validity of such set-off.

3.9 Each of the invoices paid by UNICEF may be subject to a post-payment audit by UNICEF’s external and internal auditors or by other authorized agents of UNICEF, at UNICEF’s discretion during the term of the Contract and for three (3) years after the Contract terminates. UNICEF will be entitled to a refund from the Supplier of amounts such audits or audits determine were not in accordance with the Contract regardless of the reasons for such payments (including but not limited to the actions or inactions of UNICEF staff and other personnel).

4. Representations and Warranties; Indemnification; Insurance

4.1 The Supplier represents and warrants to us of the effective date and throughout the term of the Contract: (a) it has the full authority and power to enter into the Contract and to perform its obligations under the Contract and the Consequences are a legal, valid and binding obligation, enforceable against it in accordance with its terms; (b) it has, and will maintain throughout the term of the Contract, all rights, licenses, authority and resources necessary, as applicable, to develop, source, manufacture and supply the Goods and to perform its other obligations under the Contract; (c) all of the information concerning the Goods and the Supplier that the Supplier has previously provided to UNICEF, or that it provides to UNICEF during the term of the Contract, is true, correct, accurate and not misleading; (d) it is financially solvent and is able to supply the Goods to UNICEF in accordance with the terms and conditions of the Contract; (e) the use or supply of the Goods does not and will not infringe any patent, design, trade-name or trademark; (f) it has acts and will not enter into any agreement or arrangement that restrains or restricts any person’s rights to use, sell, dispose of or otherwise deal with the Goods; and (g) the development, manufacture and supply of the Goods is, and will continue to be, in compliance with all applicable laws, rules and regulations. The Supplier will satisfy in compliance with the fullest extent to the interests of UNICEF and will refrain from any action which may adversely affect UNICEF or the United Nations.

4.2 The Supplier further represents and warrants that the Goods (including packaging) (a) conform to the quality, quantity and specifications for the Goods stated in the Contract (including, in the case of pharmaceutical or pharmaceutical products, the shelf life specified in the Contract); (b) conform in all respects to the technical documentation provided by the Supplier in respect of such Goods and, if samples were provided to UNICEF prior to entering into the Contract, are not distinguishable in all respects to such samples; (c) are new and unused; (d) are free from defects in design, manufacture, workmanship and materials; (e) are free from all known or unknown or other third party claims; and (g) are contained or packaged in accordance with the standards of expert packaging for the type and quantities of the Goods specified in the Contract, and for the modes of transport of the Goods specified in the Contract (excluding but not limited to, as a minimum adequate to protect them in such modes of transport) and marked in a proper manner in accordance with the instructions stipulated in the Contract and applicable law.

4.3 The warranties provided in Article 4.2 will remain valid for the warranty period specified in the Contract: provided that (a) the warranty period for pharmaceutical goods or other perishable products will be no less than the shelf-life of three Goods specified in the Contract; and (b) if any warranty period or shelf-life is specified in the Contract, the warranties will remain valid from the date the Supplier signs the Contract until the day following (12) months after fulfillment of the delivery terms or such later date as may be prescribed by law.

4.4 If the Supplier is not the original manufacturer of the Goods or any part of the Goods, the Supplier assigns to UNICEF (for, in UNICEF’s understanding, the Government or other entity that receives the Goods) all manufacturers’ warranties in addition to any other warranties under the Contract.

4.5 The representations and warranties made by the Supplier in Articles 4.1 and 4.2 and the Supplier’s obligations in Articles 4.3 and 4.4 above are made and are for the benefit of (a) each entity that makes a direct financial contribution to the purchase of Goods; and (b) each Government or other entity that receives the Goods.
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GENERAL TERMS AND CONDITIONS

4.6 The Supplier will indemnify, hold and save harmless and defend, at its own expense, UNICEF, its officials, employees, consultants and agents, each entity that makes a direct financial contribution to the purchase of the Goods and each Government or other entity that receives the Goods, from and against all claims, claims, demands, losses and liability of any nature or kind, including their costs and expenses, by a third party and arising out of the acts or omissions of the Supplier or its Personnel or sub-contractors in the performance of the Contract. This provision extends to but not be limited to (a) claims and liability in the nature of workers' compensation; (b) product liability; and (c) any actions or claims pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the Goods or other liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property provided or licensed to UNICEF under the Contract or used by the Supplier, its Personnel or sub-contractors in the performance of the Contract.

4.7 UNICEF will report any such suits, proceedings, claims, demands, losses or liability to the Supplier within a reasonable period of time after having received actual notice. The Supplier will have sole control of the defense, settlement and compromise of any such suit, proceeding, claim or demand except with respect to the insurance or defense of the privileges and immunities of UNICEF or any matter relating to UNICEF's privileges and immunities (including matters relating to UNICEF's relations with Host Governments), which are between the Supplier and UNICEF, only UNICEF itself for relevant governmental entities will assert and maintain, UNICEF will have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

5.0 Liability

4.9 The Supplier will pay UNICEF promptly for all less, destruction or damage to UNICEF's property caused by the Supplier's Personnel or sub-contractors in the performance of the Contract.

5.0 INTELLECTUAL PROPERTY AND OTHER PROPRIETARY RIGHTS

5.1 Unless otherwise expressly provided for in the Contract:

(a) Subject to paragraph (b) of this Article 5.1, UNICEF will be entitled to all intellectual property and other proprietary rights with regard to products, processes, inventions, ideas, know-how, data or documents and other materials ("Contract Materials") that (i) the Supplier develops for UNICEF under the Contract and which bear a direct relation to the Contract or (ii) are produced, prepared or collected in consequence of, or during the course of, the performance of the Contract. The term "Contract Materials" includes, but is not limited to, all maps, drawings, photographs, plans, reports, recommendations, estimates, documents developed or received by, and all other data compiled or received by, the Supplier under the Contract.

(b) UNICEF will not be entitled to, and will not claim any ownership interest in, any intellectual property or other proprietary rights of the Supplier that pre-existed the performance by the Supplier of its obligations under the Contract, or that the Supplier may develop or acquire, or may have developed or required, independently of the performance of its obligations under the Contract. The Supplier grants to UNICEF a perpetual license to use such intellectual property or other proprietary rights solely for the purposes of and in accordance with the requirements of the Contract.

(c) At UNICEF's request, the Supplier will take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring title, in the case, intellectual property referred to in paragraph (b) above, licensing then to UNICEF in compliance with the requirements of the applicable law and of the Contract.

Confidentiality

5.2 Confidential Information that is considered proprietary by either Party or data is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract will be kept in confidence by the Recipient. The Recipient will use the same care and discretion to avoid disclosure of the Discloser's Confidential Information as the Recipient uses for its own Confidential Information and will use the Discloser's Confidential Information solely for the purpose for which it was disclosed to the Recipient. The Recipient will not disclose the Discloser's Confidential Information to any other party:

(a) except to those of its Affiliates, employees, officials, representatives, agents and sub-contractors who have a need to know such Confidential Information for purposes of performing obligations under the Contract;

(b) unless the Confidential Information (i) is obtained by the Recipient from a third party without restriction; (ii) is disclosed by the Discloser to a third party without any obligation of confidentiality; (iii) is known by the Recipient prior to disclosure by the Discloser; or (iv) at any time is developed by the Recipient independently of any disclosures under the Contract.

5.3 If the Supplier receives a request for disclosure of UNICEF's Confidential Information pursuant to any judicial or law enforcement process, before any such disclosure is made, the Supplier (a) will give UNICEF sufficient notice of such request in order to allow UNICEF to have a reasonable opportunity to seek the intervention of the relevant national Government to establish protective measures or take such other action as may be appropriate; and (b) will not advise the relevant authority that requested disclosure. UNICEF may disclose the Supplier's Confidential Information to the extent required pursuant to resolutions or regulations of its governing bodies.

5.4 The Supplier may not communicate at any time to any other person, Government or authority external to UNICEF, any information known to it by reason of its association with UNICEF that has not been made public, except with the prior authorization of UNICEF; nor will the Supplier at any time use such information to private advantage.
ANNEX A

GENERAL TERMS AND CONDITIONS

End of Contract

5.5 Upon the expiry or earlier termination of the Contract, the Supplier will:

(a) return to UNICEF all of UNICEF’s Confidential Information or, if UNICEF’s option, destroy all copies of such information held by the Supplier or its sub-contractors and confirm such destruction to UNICEF in writing; and

(b) will transfer to UNICEF all intellectual and other proprietary information in accordance with Article 5.10(b).

6 Termination: Force Majeure

Termination by Either Party for Material Breach

6.1 If one Party is in material breach of any of its obligations under the Contract, 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 such breach is not capable of remedy, the non-breaching Party can terminate the Contract. 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 (Disputes and Arbitrations; Settlement of Disputes) below will not be grounds for termination of the Contract.

Additional Termination Rights of UNICEF

6.2 In addition to the termination rights under Article 6.1 above, UNICEF can terminate the Contract immediately upon delivery of a written notice of termination, 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); or

(b) if the Supplier breaches any of the provisions of Articles 5.2.5.4 (Confidentiality); or

(c) if the Supplier is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stays on any payment or repayment obligations, or applies to be declared insolvent; or if the Supplier is insolvent or is declared insolvent; or if a judgment is obtained for the benefit of one or more of creditor’s creditors; or if it has a receiver appointed on account of the insolvent of the Supplier; or if it enters into a Perthory of Bankruptcy or receivership; or if it has been, in UNICEF’s reasonable judgment, subject to a materially adverse change in its financial condition that thereto to substantially affect the ability of the Supplier to perform any of its obligations under the Contract.

6.3 In addition to the termination rights under Articles 6.1 and 6.2 above, UNICEF can terminate the Contract at any time by providing written notice to the Supplier in any case in which UNICEF’s mandate applicable to the performance of the Contract or UNICEF’s funding applicable to the Contract is curtailed or terminated, whether in whole or in part, UNICEF can also terminate the Contract upon sixty (60) days’ written notice to the Supplier without having to provide any justification.

6.4 As soon as it receives a notice of termination from UNICEF, the Supplier will immediately take steps to cease provision of the Goods in a prompt and orderly manner and to minimize costs and will seek instructions from UNICEF regarding Goods in stock at any time and will not undertake any further or additional commitments as of and following the date it receives the termination notice. In addition, the Supplier will take any other action that may be necessary, or that UNICEF may direct in writing, for the minimization of losses and for the protection and preservation of any property (whether tangible or intangible) related to the Contract that is in the possession of the Supplier and in which UNICEF has or may be reasonably expected to acquire an interest.

6.5 If the Contract is terminated, no payment will be due from UNICEF to the Supplier except for Goods delivered in accordance with the requirements of the Contract and only if such Goods were ordered, requested or otherwise provided prior to the Supplier’s receipt of notice of termination from UNICEF or, in the case of terminations by the Supplier, the effective date of such termination. The Supplier will have no claim for any further payment beyond payments in accordance with this Article 6.5, but will remain liable to UNICEF for all loss or damage which may be suffered by UNICEF by reason of the Supplier’s default (including but not limited to cost of the purchase and delivery of replacement or substitute goods).

6.6 The termination rights in this Article 6 are in addition to all other rights and remedies of UNICEF under the Contract.

Force Majeure

6.7 If one Party is rendered permanently unable, wholly or in part, by reason of force majeure to perform its obligations under the Contract, the other Party may terminate the Contract on the same terms and conditions as are provided for in Article 6.1 above, except that the period of notice will be seven (7) days instead of thirty (30) days. "Force majeure" means any unforeseeable and irresistible event 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 forces. "Force majeure" does not include (a) any event which is created by the negligence or intentional actions 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 the Contract was entered into; (c) the insufficiency of funds, inability to make any payment required under the Contract, 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 Supplier (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.

Ethical Standards

7.1 The Supplier will be responsible for the professional and ethical conduct of its Personnel (including its employees and, if relevant, its Sub-contractors) and of any independent contractors and consultants hired by it and the Supplier is responsible for this conduct whether directed or not.

7.2 (a) The Supplier represents and warrants that no official of UNICEF or of any United Nations System organization has received from or on behalf of the Supplier, or will be offered or on behalf of the Supplier, any direct or indirect benefit in connection with the Contract including the award of the Contract to the Supplier. Such direct or indirect benefit includes, but is not limited to, any gifts, favours or hospitality.

(b) The Supplier represents and warrants that the following requirements with regard to former UNICEF employees or Sub-contractors have been complied with and will be complied with:

(i) During the one (1) year period after an official has separated from UNICEF, the Supplier may not make a direct or indirect offer of employment to that former UNICEF official or to any Sub-contractors; and

(ii) During the two (2) year period after an official has separated from UNICEF, that former UNICEF official may not directly or indirectly solicit on behalf of the Supplier, communicate with UNICEF, or present to UNICEF, about any matters that were within such former official’s responsibilities while at UNICEF.

7.3 The Supplier represents that, in respect of all aspects of the Contract including the award of the Contract by UNICEF to the Supplier and the selection and awarding of subcontractors by the Supplier, it has disclosed to UNICEF any situation that may constitute an actual or potential conflict of interest or could reasonably be perceived as a conflict of interest.

7.4 The Supplier further represents and warrants that neither it nor any of its Affiliates, or Personnel, employees, agents or sub-contractors, is engaged, directly or indirectly, in any activity that would give rise to a conflict of interest with any UNICEF employees, employees, agents, or sub-contractors.

7.5 The Supplier will, during the term of the Contract, comply with (a) all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract and (b) the standards of conduct required under the UN Supplier Code of Conduct (available at the United Nations Global Marketplace website: www.ungc.org).

7.6 The Supplier further represents and warrants that neither it nor any of its Affiliates, is engaged, directly or indirectly, (a) in any practice inconsistent with the laws and regulations or (b) in any activity inconsistent with any local laws and regulations.
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Convention on the Rights of the Child, including Article 32, or the International Labour Organization’s Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No. 182 (1999) or (b) in the manufacture, sale, distribution, or use of non-personal items or components utilized in the manufacture of anti-personnel mines.

7.7 The Supplier represents and warrants that it has taken and will take all appropriate measures to prevent sexual exploitation or abuse of anyone by its Personnel including its employees or any persons engaged by the Supplier to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, will constitute the sexual exploitation and abuse of such person. In addition, the Supplier represents and warrants that it has taken and will take all appropriate measures to prohibit its Personnel, including its employees or other persons engaged by the Supplier, from engaging in any sexual activities that are exploitive or degrading to any person. This provision constitutes an essential term of the Contract and any breach of this representation and warranty will entitle UNICEF to terminate the Contract immediately upon notice to the Supplier, without any liability for termination charges or any other liability of any kind.

7.8 The Supplier will furnish UNICEF as soon as it becomes aware of any breach or violation that is inconsistent with the undertakings and certifications provided in this Article 7.

7.9 The Supplier acknowledges and agrees that each of the provisions in this Article 7 constitutes an essential term of the Contract.

(a) UNICEF will be entitled, in its sole discretion and at its sole election, to suspend or terminate the Contract and any other contract between UNICEF and the Supplier with immediate effect upon written notice to the Supplier if: (i) the Supplier becomes aware of any incident or report that is inconsistent with, or the Supplier believes any of, the undertakings and certifications provided in this Article 7 or the equivalent provisions of any contract between UNICEF and the Supplier or any of its Affiliates, or (ii) the Supplier or any of its Affiliates, or Personnel or directors becomes subject to any investigation or temporary suspension described in Article 7.3 during the term of the Contract.

(b) In the case of suspension, if the Supplier takes appropriate action to address the relevant incident or breach to UNICEF’s satisfaction within the period stipulated in the notice of suspension, UNICEF may lift the suspension by written notice to the Supplier and the Contractor and all other affected contracts will resume in accordance with their terms. If the Supplier is not satisfied that the matters are being adequately addressed by the Supplier, UNICEF may at any time, exercise its right to terminate the Contract and any other contract between UNICEF and the Supplier.

(c) Any suspension or termination under this Article 7 will be without any liability for the termination of other charges or any other liability of any kind.

8. Full Cooperation with Audits And Investigations

8.1 From time to time, UNICEF may conduct investigations relating to any aspect of the Contract including but not limited to the award of the Contract, the way in which the Contractor operates or operates, and the Parties’ performance of the Contract generally and including but not limited to the Supplier’s compliance with the provisions of Article 7 above. The Supplier will provide full and timely cooperation with such inspections, post-payment audits or investigations, including (but not limited to) making its Personnel and any relevant data and documentation available for the purposes of such inspections, post-payment audits or investigations, at reasonable times and on reasonable conditions, and granting UNICEF and the Supplier to undertake such inspections, post-payment audits or investigations access to the Supplier’s premises at reasonable times and on reasonable conditions in connection with making its Personnel and any relevant data and documentation available. The Supplier will require its sub-contractors and its agents, including, but not limited to, the Supplier’s attorneys, accountants or other advisors, to provide reasonable cooperation with any inspections, post-payment audits or investigations carried out by UNICEF.

9. Privileges and Immunities: Settlement of Disputes

9.1 Nothing in or related to the Contract will be deemed a waiver, express or implied, deliberate or involuntary, of any of the privileges and immunities of the United Nations, including UNICEF and its subsidiary organs, under the Convention on the Privileges and Immunities of the United Nations, 1945, or otherwise.

9.2 The terms of the Contract will be interpreted and applied without application of any system of national or sub-national law.

9.3 The Parties will use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to the Contract. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliator will take place in accordance with the UNICITRAL Conciliation Rules then in force, according to such other procedure as may be agreed between the Parties. Any dispute, controversy or claim between the Parties arising out of the Contract which is not resolved within ninety (90) days after one Party receives a request from the other Party for amicable settlement cannot be referred to either Party for arbitration. The arbitration will take place in accordance with the UNCITRAL Arbitration Rules then in force.

The Parties will be bound by any arbitration award rendered as a result of such arbitration in the final adjudication of any such controversy, claim or dispute.

10. Notices

10.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract shall be in writing, and addressed to the person listed in the Contract for the delivery of notices, requests or consents. Notices, requests or consents will be deemed received upon delivery (if delivered in person), upon signature of receipt (if delivered by registered mail, or twenty-four (24) hours after confirmation of receipt is sent from the addressee’s email address (if delivered by confirmed email transmissions).

10.2 Any notices, documents or reports issued in connection with the Contract must be consistent with the terms and conditions of the Contract and, in the case of any ambiguity, discrepancy or incompatibility, the terms and conditions of the Contract will prevail.

10.3 All documents that comprise the Contract, and all documents, notices and reports issued or provided pursuant to or in connection with the Contract, will be deemed to be in electronic format, and will be interpreted and applied in conformity with the provisions of Article 9 (Privileges and Immunities; Settlement of Disputes).

11. Other Provisions

11.1 The Supplier acknowledges that UNICEF’s commitment to transparency and uphold UNICEF’s Information Disclosure Policy and conforms to UNICEF’s public disclosure of the terms of the Contract should UNICEF so determine and by whatever means UNICEF determines.

11.2 The failure of one Party to object to or take affirmative action with respect to any conduct of the other which is in violation of the terms of the Contract will not constitute and will not be construed to be a waiver of the violation or breach, or if any future violations, breaches or wrongful conduct.

11.3 The Supplier will be committed as having the legal status of an individual contractor as regards UNICEF. Nothing contained in the Contract will be construed as making the Parties principal and agent or joint venturers.

11.4 (a) Except as expressly provided in the Contract, the Supplier will be responsible for its own costs for providing all the necessary equipment, personnel, material and supplies and for making all arrangements necessary for the performance of its obligations under the Contract.

(b) In the event that the Supplier requires the services of sub-contractors to perform any obligations under the Contract, the Supplier will notify UNICEF of this. The terms of any sub-contract will be subject to, and will be considered to be in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

(c) The Supplier confirms that it has read UNICEF’s Policy on Contract Procuring the Protection and Safeguarding of Children. The Supplier will ensure that its Personnel understand the notification requirements expected of them and will maintain and maintain appropriate measures to guarantee compliance with such requirements. The Supplier will further cooperate with UNICEF’s implementation of this policy.

(d) The Supplier will be fully responsible and liable for all services performed by it’s Personnel and sub-contractors and for their compliance with the terms and conditions of the Contract. The Supplier’s Personnel, including individual sub-contractors, will not be considered in any respect as being the employees or agents of UNICEF.
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(a) Without limiting any other provisions of the Contract, the Supplier will be fully responsible and liable for, and UNICEF will not be liable for (i) all payments due to its Personnel and sub-contractors for their services in relation to the performance of the Contract; (ii) any action, omission, negligence or misconduct of the Contractor, its Personnel and sub-contractors; and (iii) any insurance coverage which may be necessary or desirable for the purpose of the Contract; (iv) the safety and security of the Contractor's Personnel and sub-contractors' personnel; or (v) any costs, expenses, or claims associated with any illness, injury, death or disability of the Contractor's Personnel and sub-contractors' personnel, it being understood that UNICEF will have no liability or responsibility with regard to any of the events referred to in this Article 11.4(d).

II.5 The Supplier will not, without the prior written consent of UNICEF, assign, transfer, pledge or make other dispositions of the Contract, or any part of the Contract, or of any of the Supplier's rights or obligations under the Contract.

II.6 No grant of time to be a Party to cure a default under the Contract, nor any delay or failure by a Party to exercise any other right or remedy available to it under the Contract, will be deemed to prejudice any rights or remedies available to it under the Contract or constitute a waiver of any rights or remedies available to it under the Contract.

II.7 The Supplier will not bring or file any claim, attachment or other encumbrance against any money due or to become due under the Contract, and shall not permit any other person to do so. It will immediately remove or obtain the removal of any lien, attachment or other encumbrance that is secured against any money due or to become due under the Contract.

II.8 The Supplier will not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNICEF or the United Nations. Except as regards references to the name of UNICEF for the purposes of annual reports or communications between the Parties and between the Supplier and its Personnel and sub-contractors, the Supplier will not, in any manner whatsoever use the name, emblem or official seal of UNICEF or the United Nations, or any abbreviation of the name of the United Nations, in connection with its business or otherwise without the written permission of UNICEF.

II.9 The Contract may be translated into languages other than English. The translated version of the Contract is for convenience only, and the English language version will govern in all circumstances.

II.10 No modification or change in the Contract, and no waiver of any of its provisions, nor any additional contractual relationship of any kind with the Supplier, will be valid and enforceable against UNICEF, unless set out in a written amendment to the Contract signed by an authorised official of UNICEF.

II.11 The provisions of Articles 2.8, 2.9, 3.8, 3.9, 4.5, 7.8, 9, 11.1, 11.2, 11.4(e), 11.6 and 11.8 will survive delivery of the Goods and the expiry or earlier termination of the Contract.